

YEARBOOK

2004-2005

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INTERNATIONAL COURT OF JUSTICE

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In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The present volume – fifty-ninth of the series – covers the period from 1 August 2004 to 31 July 2005.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Philippe COUVREUR,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. BASIC TEXTS

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the Practice Directions supplementing them, as well as the resolution concerning the internal judicial practice of the Court.

1. *Charter of the United Nations*

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. *Statute of the International Court of Justice*

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

"1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 93-99, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, p. 99, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court

adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 91-161).

On 5 December 2000 the Court adopted amendments to two Articles of its 1978 Rules: Article 79, relating to preliminary objections, and Article 80, relating to counter-claims. The amendments aimed at countering the proliferation of, and shortening, incidental proceedings, at clarifying the rules in force and at adapting them to affect more closely the practice developed by the Court. They came into force on 1 February 2001. On 14 April 2005, as part of the ongoing review of its procedures and working methods, the Court adopted a new procedure for the promulgation of amendments to its Rules. It has amended the Preamble to the latter in order to reflect this procedure.

The Rules adopted on 1 February 2001 continue to apply to all cases submitted to the Court prior to 14 April 2005, and to all phases of those cases.

Under the new promulgation procedure for amendments to the Rules, whenever the Court adopts an amendment to an Article of its Rules, the text will be posted on the Court's website, with an indication of its date of entry into force and a note of any temporal reservation relating to its applicability (e.g., whether application of the amended Article is limited to cases instituted after the date of entry into force of the amendment concerned). Previously, each amendment to the Court's Rules had been indicated in the Preamble. That practice is now discontinued. In the integral updated text of the Rules, Articles amended since the Rules' entry into force, on 1 July 1978, will henceforth be indicated by an asterisk and footnote.

The integral updated text of the Rules of Court will continue to be published from time to time, as appropriate, in a printed version.

The text of the amended Preamble is reproduced below:

"RULES OF COURT (1978)

ADOPTED ON 14 APRIL 1978, ENTERED INTO FORCE ON 1 JULY 1978¹

PREAMBLE*

The Court,

Having regard to Chapter XIV of the Charter of the United Nations;

Having regard to the Statute of the Court annexed thereto;

Acting in pursuance of Article 30 of the Statute;

Adopts the following Rules.

¹ Articles amended since this date are marked with an asterisk and here appear in their amended form.

* Amendment entered into force on 14 April 2005."

Also on 14 April 2005, the Court amended Article 52 of its Rules. Paragraph 3 of this Article, which concerns the procedure to be followed where the Registrar arranges for the printing of a pleading, has been deleted and the footnote to the Article has been amended. Paragraph 4 of Article 52 has been renumbered and is now paragraph 3.

The text of Article 52 of the Rules, as amended, is reproduced below:

"Article 52¹*

1. The original of every pleading shall be signed by the agent and filed in the Registry. It shall be accompanied by a certified copy of the pleading, documents annexed, and any translations, for communication to the other party in accordance with Article 43, paragraph 4, of the Statute, and by the number of additional copies required by the Registry, but without prejudice to an increase in that number should the need arise later.

2. All pleadings shall be dated. When a pleading has to be filed by a certain date, it is the date of the receipt of the pleading in the Registry which will be regarded by the Court as the material date.

3. The correction of a slip or error in any document which has been filed may be made at any time with the consent of the other party or by leave of the President. Any correction so effected shall be notified to the other party in the same manner as the pleading to which it relates.

¹ The agents of the parties are requested to ascertain from the Registry the usual format of the pleadings.

* Amendment entered into force on 14 April 2005."

In October 2001 the Court decided to adopt Practice Directions for use by the States appearing before it. These Practice Directions involve no alteration to the Rules of Court, but are additional thereto. Practice Directions VII and VIII do not affect a choice or designation made by the parties prior to 7 February 2002, the date of the adoption by the Court of those Directions.

On 30 July 2004 the Court amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII. The amendment to Practice Direction V, which sets the four-month period for the presentation by a party of its observations and submissions on preliminary objections, clarifies that this period runs from the date of the filing of the preliminary objections. Practice Direction X requests the Agents of the parties to attend without delay any meeting called by the President of the Court whenever a decision on a procedural issue needs to be made in a case. Practice Direction XI states that in the oral pleadings on provisional measures parties should limit themselves to what is relevant to the criteria for the indication of such measures. Finally, Practice Direction XII establishes a procedure to be followed with regard to written statements and/or documents submitted by international non-governmental organizations in connection with advisory proceedings.

The text of the Practice Directions is reproduced below:

“PRACTICE DIRECTIONS¹

Practice Direction I

The Court wishes to discourage the practice of simultaneous deposit of pleadings in cases brought by special agreement.

The Court would expect future special agreements to contain provisions as to the number and order of pleadings, in accordance with Article 46, paragraph 1, of the Rules of Court. Such provisions shall be without prejudice to any issue in the case, including the issue of burden of proof.

If the special agreement contains no provisions on the number and order of pleadings, the Court will expect the parties to reach agreement to that effect, in accordance with Article 46, paragraph 2, of the Rules of Court.

Practice Direction II

Each of the parties is, in drawing up its written pleadings, to bear in mind the fact that these pleadings are intended not only to reply

¹ The Court first adopted in October 2001 Practice Directions for use by States appearing before it. Practice Directions involve no alteration to the Rules of Court, but are additional thereto. They are the result of the Court's ongoing review of its working methods. Any amendments to the Practice Directions, following their adoption by the Court, are now posted on the Court's website and published in the Court's *Yearbook*, with a note of any temporal reservations relating to their applicability.

to the submissions and arguments of the other party, but also, and above all, to present clearly the submissions and arguments of the party which is filing the proceedings.

In the light of this, at the conclusion of the written pleadings of each party, there is to appear a short summary of its reasoning.

Practice Direction III

The Court has noticed an excessive tendency towards the proliferation and protraction of annexes to written pleadings. It strongly urges parties to append to their pleadings only strictly selected documents.

Practice Direction IV

Where one of the parties has a full or partial translation of its own pleadings or of those of the other party in the other official language of the Court, these translations should as a matter of course be passed to the Registry of the Court. The same applies to the annexes.

These translations will be examined by the Registry and communicated to the other party. The latter will also be informed of the manner in which they were prepared.

Practice Direction V

With the aim of accelerating proceedings on preliminary objections made by one party under Article 79, paragraph 1, of the Rules of Court, the time-limit for the presentation by the other party of a written statement of its observations and submissions under Article 79, paragraph 5, shall generally not exceed four months from the date of the filing of the preliminary objections.

Practice Direction VI

Article 60, paragraph 1, of the Rules provides:

'The oral statements made on behalf of each party shall be as succinct as possible within the limits of what is requisite for the adequate presentation of that party's contentions at the hearing. Accordingly, they shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain.'

The Court requires full compliance with these provisions and observation of the requisite degree of brevity. Where objections of lack of jurisdiction or of inadmissibility are being considered, oral proceedings are to be limited to statements on the objections.

Practice Direction VII¹

The Court considers that it is not in the interest of the sound administration of justice that a person sit as judge *ad hoc* in one case who is also acting or has recently acted as agent, counsel or advocate in another case before the Court. Accordingly, parties, when choosing a judge *ad hoc* pursuant to Article 31 of the Statute and Article 35 of the Rules of Court, should refrain from nominating persons who are acting as agent, counsel or advocate in another case before the Court or have acted in that capacity in the three years preceding the date of the nomination. Furthermore, parties should likewise refrain from designating as agent, counsel or advocate in a case before the Court a person who sits as judge *ad hoc* in another case before the Court.

Practice Direction VIII¹

The Court considers that it is not in the interest of the sound administration of justice that a person who until recently was a Member of the Court, judge *ad hoc*, Registrar, Deputy-Registrar or higher official of the Court (principal legal secretary, first secretary or secretary), appear as agent, counsel or advocate in a case before the Court. Accordingly, parties should refrain from designating as agent, counsel or advocate in a case before the Court a person who in the three years preceding the date of the designation was a Member of the Court, judge *ad hoc*, Registrar, Deputy-Registrar or higher official of the Court.

Practice Direction IX

1. The parties to proceedings before the Court should refrain from submitting new documents after the closure of the written proceedings.

2. A party nevertheless desiring to submit a new document after the closure of the written proceedings shall explain why it considers it necessary to include the document in the case file and shall indicate the reasons preventing the production of the document at an earlier stage.

3. In the absence of consent of the other party, the Court will authorize the production of the new document only in exceptional circumstances, if it considers it necessary and if the production of the document at this stage of the proceedings appears justified to the Court.

4. If a new document has been added to the case file under Article 56 of the Rules of Court, the other party, when commenting

¹ Practice Directions VII and VIII do not affect a choice or designation made by the parties prior to 7 February 2002, the date of the adoption by the Court of those Directions.

upon it, shall confine the introduction of any further documents to what is strictly necessary and relevant to its comments on what is contained in this new document.

Practice Direction X

Whenever a decision on a procedural issue needs to be made in a case and the President deems it necessary to call a meeting of the agents to ascertain the views of the parties in this regard pursuant to Article 31 of the Rules of Court, agents are expected to attend that meeting as early as possible.

Practice Direction XI

The Court has noticed the increasing tendency of parties to request the indication of provisional measures. Parties should in their oral pleadings thereon limit themselves to what is relevant to the criteria for the indication of provisional measures as indicated in the Statute, Rules and jurisprudence of the Court. They should not enter into the merits of the case beyond what is strictly necessary for that purpose.

Practice Direction XII

1. Where an international non-governmental organization submits a written statement and/or document in an advisory opinion case on its own initiative, such statement and/or document is not to be considered as part of the case file.

2. Such statements and/or documents shall be treated as publications readily available and may accordingly be referred to by States and intergovernmental organizations presenting written and oral statements in the case in the same manner as publications in the public domain.

3. Written statements and/or documents submitted by international non-governmental organizations will be placed in a designated location in the Peace Palace. All States as well as intergovernmental organizations presenting written or oral statements under Article 66 of the Statute will be informed as to the location where statements and/or documents submitted by international non-governmental organizations may be consulted."

II. CHRONOLOGICAL SURVEY

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court (*Corfu Channel (United Kingdom v. Albania)*) was submitted on 22 May 1947.

Between then and 31 July 2005 the Court has had to deal with a total of 132 cases, i.e., 108 contentious cases and 24 advisory cases, as listed

below. In those cases it gave 90 judgments, of which 57 were on the merits, and 24 advisory opinions. Of the 428 orders made therein, 305 related solely to the fixing or extending of time-limits, while 393 orders related to contentious cases and 35 to advisory cases.

<i>Title</i>	<i>Dates</i>
(a) Contentious ¹	
<i>Corfu Channel (United Kingdom v. Albania)</i>	1947-1949
<i>Fisheries (United Kingdom v. Norway)</i>	1949-1951
<i>Protection of French Nationals and Protected Persons in Egypt (France v. Egypt)</i>	1949-1950
<i>Asylum (Colombia v. Peru)</i>	1949-1950
<i>Rights of Nationals of the United States of America in Morocco (France v. United States of America)</i>	1950-1952
<i>Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. Peru)</i>	1950
<i>Haya de la Torre (Colombia v. Peru)</i>	1950-1951
<i>Ambatielos (Greece v. United Kingdom)</i>	1951-1953
<i>Anglo-Iranian Oil Co. (United Kingdom v. Iran)</i>	1951-1952
<i>Minquiers and Ecrehos (France v. United Kingdom)</i>	1951-1953
<i>Nottebohm (Liechtenstein v. Guatemala)</i>	1951-1955
<i>Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)</i>	1953-1954
<i>Electricité de Beyrouth Company (France v. Lebanon)</i>	1953-1954
<i>Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. Hungary)</i>	1954
<i>Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. USSR)</i>	1954
<i>Aerial Incident of 10 March 1953 (United States of America v. Czechoslovakia)</i>	1955-1956
<i>Antarctica (United Kingdom v. Argentina)</i>	1955-1956
<i>Antarctica (United Kingdom v. Chile)</i>	1955-1956
<i>Aerial Incident of 7 October 1952 (United States of America v. USSR)</i>	1955-1956
<i>Certain Norwegian Loans (France v. Norway)</i>	1955-1957
<i>Right of Passage over Indian Territory (Portugal v. India)</i>	1955-1960

¹ In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

<i>Title</i>	<i>Dates</i>
<i>Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden)</i>	1957-1958
<i>Interhandel (Switzerland v. United States of America)</i>	1957-1959
<i>Aerial Incident of 27 July 1955 (Israel v. Bulgaria)</i>	1957-1959
<i>Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)</i>	1957-1960
<i>Aerial Incident of 27 July 1955 (United Kingdom v. Bulgaria)</i>	1957-1959
<i>Sovereignty over Certain Frontier Land (Belgium/Netherlands)</i>	1957-1959
<i>Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)</i>	1958-1960
<i>Aerial Incident of 4 September 1954 (United States of America v. USSR)</i>	1958
<i>Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)</i>	1958-1961
<i>Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)</i>	1959-1960
<i>Aerial Incident of 7 November 1954 (United States of America v. USSR)</i>	1959
<i>Temple of Preah Vihear (Cambodia v. Thailand)</i>	1959-1962
<i>South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)</i>	1960-1966
<i>Northern Cameroons (Cameroon v. United Kingdom)</i>	1961-1963
<i>Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)</i>	1962-1970
<i>North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)</i>	1967-1969
<i>Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)</i>	1971-1972
<i>Fisheries Jurisdiction (United Kingdom v. Iceland)</i>	1972-1974
<i>Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)</i>	1972-1974
<i>Nuclear Tests (Australia v. France)</i>	1973-1974
<i>Nuclear Tests (New Zealand v. France)</i>	1973-1974
<i>Trial of Pakistani Prisoners of War (Pakistan v. India)</i>	1973
<i>Aegean Sea Continental Shelf (Greece v. Turkey)</i>	1976-1978
<i>Continental Shelf (Tunisia/Libyan Arab Jamahiriya)</i>	1978-1982

<i>Title</i>	<i>Dates</i>
<i>United States Diplomatic and Consular Staff in Tehran</i> (<i>United States of America v. Iran</i>)	1979-1981
<i>Delimitation of the Maritime Boundary in the Gulf of Maine Area</i> (<i>Canada/United States of America</i>) [case referred to a Chamber]	1981-1984
<i>Continental Shelf</i> (<i>Libyan Arab Jamahiriya/Malta</i>)	1982-1985
<i>Frontier Dispute</i> (<i>Burkina Faso/Republic of Mali</i>) [case referred to a Chamber]	1983-1986
<i>Military and Paramilitary Activities in and against Nicaragua</i> (<i>Nicaragua v. United States of America</i>)	1984-1991
<i>Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf</i> (<i>Tunisia/Libyan Arab Jamahiriya</i>) (<i>Tunisia v. Libyan Arab Jamahiriya</i>)	1984-1985
<i>Border and Transborder Armed Actions</i> (<i>Nicaragua v. Costa Rica</i>)	1986-1987
<i>Border and Transborder Armed Actions</i> (<i>Nicaragua v. Honduras</i>)	1986-1992
<i>Land, Island and Maritime Frontier Dispute</i> (<i>El Salvador/Honduras: Nicaragua intervening</i>) [case referred to a Chamber] ¹	1986-1992
<i>Elettronica Sicula S.p.A. (ELSI)</i> (<i>United States of America v. Italy</i>) [case referred to a Chamber]	1987-1989
<i>Maritime Delimitation in the Area between Greenland and Jan Mayen</i> (<i>Denmark v. Norway</i>)	1988-1993
<i>Aerial Incident of 3 July 1988</i> (<i>Islamic Republic of Iran v. United States of America</i>)	1989-1996
<i>Certain Phosphate Lands in Nauru</i> (<i>Nauru v. Australia</i>)	1989-1993
<i>Arbitral Award of 31 July 1989</i> (<i>Guinea-Bissau v. Senegal</i>)	1989-1991
<i>Territorial Dispute</i> (<i>Libyan Arab Jamahiriya/Chad</i>)	1990-1994
<i>East Timor</i> (<i>Portugal v. Australia</i>)	1991-1995
<i>Maritime Delimitation between Guinea-Bissau and Senegal</i> (<i>Guinea-Bissau v. Senegal</i>)	1991-1995
<i>Passage through the Great Belt</i> (<i>Finland v. Denmark</i>)	1991-1992
<i>Maritime Delimitation and Territorial Questions between Qatar and Bahrain</i> (<i>Qatar v. Bahrain</i>)	1991-2001

¹ The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

<i>Title</i>	<i>Dates</i>
<i>Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)</i>	1992-2003
<i>Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)</i>	1992-2003
<i>Oil Platforms (Islamic Republic of Iran v. United States of America)</i>	1992-2003
<i>Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)</i>	1993-
<i>Gabčíkovo-Nagymaros Project (Hungary/Slovakia)</i>	1993-
<i>Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)¹</i>	1994-2002
<i>Fisheries Jurisdiction (Spain v. Canada)</i>	1995-1998
<i>Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case</i>	1995
<i>Kasikili/Sedudu Island (Botswana/Namibia)</i>	1996-1999
<i>Vienna Convention on Consular Relations (Paraguay v. United States of America)</i>	1998
<i>Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nigeria v. Cameroon)</i>	1998-1999
<i>Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)</i>	1998-2002
<i>Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)</i>	1998-
<i>LaGrand (Germany v. United States of America)</i>	1999-2001
<i>Legality of Use of Force (Serbia and Montenegro v. Belgium)</i>	1999-2004
<i>Legality of Use of Force (Serbia and Montenegro v. Canada)</i>	1999-2004
<i>Legality of Use of Force (Serbia and Montenegro v. France)</i>	1999-2004
<i>Legality of Use of Force (Serbia and Montenegro v. Germany)</i>	1999-2004
<i>Legality of Use of Force (Serbia and Montenegro v. Italy)</i>	1999-2004

¹ The intervention of Equatorial Guinea was admitted on 21 October 1999 (see *I.C.J. Yearbook 1999-2000*, p. 218).

<i>Title</i>	<i>Dates</i>
<i>Legality of Use of Force (Serbia and Montenegro v. Netherlands)</i>	1999-2004
<i>Legality of Use of Force (Serbia and Montenegro v. Portugal)</i>	1999-2004
<i>Legality of Use of Force (Yugoslavia v. Spain)</i>	1999
<i>Legality of Use of Force (Serbia and Montenegro v. United Kingdom)</i>	1999-2004
<i>Legality of Use of Force (Yugoslavia v. United States of America)</i>	1999
<i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi)</i>	1999-2001
<i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)</i>	1999-
<i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda)</i>	1999-2001
<i>Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)</i>	1999-
<i>Aerial Incident of 10 August 1999 (Pakistan v. India)</i>	1999-2000
<i>Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)</i>	1999-
<i>Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)</i>	2000-2002
<i>Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina)</i>	2001-2003
<i>Certain Property (Liechtenstein v. Germany)</i>	2001-2005
<i>Territorial and Maritime Dispute (Nicaragua v. Colombia)</i>	2001-
<i>Frontier Dispute (Benin/Niger) [case referred to a Chamber]</i>	2002-2005
<i>Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)</i>	2002-
<i>Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras) [case referred to a Chamber]</i>	2002-2003

<i>Title</i>	<i>Dates</i>
<i>Avena and Other Mexican Nationals (Mexico v. United States of America)</i>	2003-2004
<i>Certain Criminal Proceedings in France (Republic of the Congo v. France)</i>	2003-
<i>Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)</i>	2003-
<i>Maritime Delimitation in the Black Sea (Romania v. Ukraine)</i>	2004-
<i>(b) Advisory</i>	
<i>Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)</i>	1947-1948
<i>Reparation for Injuries Suffered in the Service of the United Nations</i>	1948-1949
<i>Interpretation of Peace Treaties with Bulgaria, Hungary and Romania</i>	1949-1950
<i>Competence of the General Assembly for the Admission of a State to the United Nations</i>	1949-1950
<i>International Status of South West Africa</i>	1949-1950
<i>Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide</i>	1950-1951
<i>Effect of Awards of Compensation Made by the United Nations Administrative Tribunal</i>	1953-1954
<i>Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa</i>	1954-1955
<i>Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco</i>	1955-1956
<i>Admissibility of Hearings of Petitioners by the Committee on South West Africa</i>	1955-1956
<i>Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization</i>	1959-1960
<i>Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)</i>	1961-1962
<i>Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)</i>	1970-1971
<i>Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal</i>	1972-1973
<i>Western Sahara</i>	1974-1975
<i>Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt</i>	1980

<i>Title</i>	<i>Dates</i>
<i>Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal</i>	1981-1982
<i>Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal</i>	1984-1987
<i>Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947</i>	1988
<i>Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations</i>	1989
<i>Legality of the Use by a State of Nuclear Weapons in Armed Conflict</i>	1993-1996
<i>Legality of the Threat or Use of Nuclear Weapons</i>	1994-1996
<i>Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights</i>	1998-1999
<i>Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory</i>	2003-2004

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court¹

The Court consists of 15 Members (Statute, Art. 3, para. 1).
On 31 July 2005 the composition of the Court was as follows:

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
<i>President</i> Shi Jiuyong	China	5 February 2012 ²
<i>Vice-President</i>		
R. Ranjeva	Madagascar	5 February 2009 ²
<i>Judges</i> A. G. Koroma	Sierra Leone	5 February 2012
V. S. Vereshchetin	Russian Federation	5 February 2006
R. Higgins	United Kingdom	5 February 2009
G. Parra-Aranguren	Venezuela	5 February 2009
P. H. Kooijmans	Netherlands	5 February 2006
F. Rezek	Brazil	5 February 2006
A. S. Al-Khasawneh	Jordan	5 February 2009
T. Buergenthal	United States	5 February 2006
N. Elaraby	Egypt	5 February 2006
H. Owada	Japan	5 February 2012
B. Simma	Germany	5 February 2012
P. Tomka	Slovakia	5 February 2012
R. Abraham	France	5 February 2009 ³

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be

¹ For the composition of chambers, see pp. 27-29, below.

² The terms of office of Judges Shi and Ranjeva as President and Vice-President respectively expire in 2006.

³ Judge Abraham was elected to fill the vacancy caused by the resignation, effective 11 February 2005, of Judge Guillaume (see p. 17, below).

re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, pp. 98-99, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. *Changes in the Composition of the Court in 2004-2005*

Judge G. Guillaume, who had been a Member of the Court since 14 September 1987 and its President from 2000 to 2003, resigned with effect on 11 February 2005. On 15 February 2005, the United Nations General Assembly and Security Council, elected Mr. Ronny Abraham to fill the resulting vacancy. His term thus extends to 5 February 2009.

3. *Former Presidents and Vice-Presidents and Former Members of the Court*

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;

1949-1952, J. Basdevant and J. G. Guerrero¹;

1952-1955, Sir Arnold McNair and J. G. Guerrero¹;

¹ While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel (United Kingdom v. Albania)*; *Protection of French Nationals and Protected Persons in Egypt (France v. Egypt)*; *Rights of Nationals of the United States of America in Morocco (France v. United States of America)*; *Ambatielos (Greece v. United Kingdom)*; *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Minquiers and Ecrchos (France/United Kingdom)*; *Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)*.

1955-1958, G. H. Hackworth and A. H. Badawi¹;
 1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;
 1961-1964, B. Winiarski and R. J. Alfaro;
 1964-1967, Sir Percy Spender and V. K. Wellington Koo;
 1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;
 1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun²;
 1973-1976, M. Lachs and F. Ammoun²;
 1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
 1979-1982, Sir Humphrey Waldock³ and T. O. Elias⁴;
 1982-1985, T. O. Elias⁵ and J. Sette-Camara;
 1985-1988, Nagendra Singh and G. Ladreit de Lacharrière⁶;
 1988-1991, J. M. Ruda and K. Mbaye;
 1991-1994, Sir Robert Jennings⁷ and S. Oda⁷;
 1994-1997, M. Bedjaoui and S. M. Schwebel;
 1997-2000, S. M. Schwebel⁸ and C. G. Weeramantry⁸.
 2000-2003, G. Guillaume and Shi Jiuyong.

¹ While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel* (Switzerland v. United States of America), *Interim Protection*, and *Aerial Incident of 27 July 1955* (United States of America v. Bulgaria).

² While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council, Nuclear Tests* (Australia v. France), *Interim Protection*, and *Nuclear Tests* (New Zealand v. France), *Interim Protection*.

³ Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

⁴ Vice-President Elias was for a time Acting President in *Continental Shelf* (Tunisia/Libyan Arab Jamahiriya) and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Canada/United States of America).

⁵ Judge Elias continued to act as President in *Continental Shelf* (Libyan Arab Jamahiriya/Malta) after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

⁶ Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

⁷ While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (Libyan Arab Jamahiriya v. United Kingdom). Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (Libyan Arab Jamahiriya v. United States of America). (See I.C.J. Yearbook 1991-1992, p. 198.)

⁸ While he was President of the Court, Judge Schwebel, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (Libyan Arab Jamahiriya v. United States of America), *Oil Platforms* (Islamic Republic of Iran v. United States of America), *Vienna Convention on Consular Relations* (Paraguay v. United States of America), *LaGrand* (Germany v. United States of America) and *Legality of Use of Force* (Yugoslavia v. United

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	<i>Country</i>	<i>Period of Office</i>
* R. Ago	Italy	1979-1995
* A. Aguilar-Mawdsley	Venezuela	1991-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
M. Bedjaoui	Algeria	1982-2001
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
* J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
L. Ferrari Bravo	Italy	1995-1997
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
C.-A. Fleischhauer	Germany	1994-2003

States of America). Although Article 32 was not applicable in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Legality of Use of Force (Serbia and Montenegro v. Belgium)* (*Serbia and Montenegro v. Canada*) (*Serbia and Montenegro v. France*) (*Serbia and Montenegro v. Germany*) (*Serbia and Montenegro v. Italy*) (*Serbia and Montenegro v. Netherlands*) (*Serbia and Montenegro v. Portugal*) (*Yugoslavia v. Spain*) (*Serbia and Montenegro v. United Kingdom*), he did not think it appropriate to exercise the functions of the Presidency in those cases either. It was therefore the Vice-President, Judge Weeramantry, who, in accordance with Article 13, paragraph 1, of the Rules, exercised those functions.

* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
* A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
G. Guillaume	France	1987-2005
* G. H. Hackworth	United States	1946-1961
G. Herczegh	Hungary	1993-2003
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
* Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
* F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
* H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
* Ni Zhengyu	China	1985-1994
S. Oda	Japan	1976-2003
* C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
S. M. Schwebel	United States	1981-2000
* J. Sette-Camara	Brazil	1979-1988
M. Shahabuddeen	Guyana	1988-1997

* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
C. G. Weeramantry	Sri Lanka	1991-2000
* V. K. Wellington Koo	China	1957-1967
* B. Winarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. JUDGES *Ad Hoc*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3, Practice Direction VII). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. Albania). Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia v. Peru), *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)* and *Haya de la Torre (Colombia v. Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. United Kingdom). Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. Iran). Mr. K. Sandjahi was chosen by Iran.

Nottebohm (Liechtenstein v. Guatemala). Mr. C. García Bauer¹ was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America). Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. India). Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden). Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. United States of America). Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. Bulgaria). Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. Bulgaria). Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua). Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

*Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*². Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. South Africa; Liberia v. South Africa). Sir Louis Mbanefo (Nigeria)³ was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. United Kingdom). Mr. P. Bebb Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain). Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

¹ The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. García Bauer.

² Case removed from the List before the Court had occasion to sit.

³ The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Cheson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan). Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. France). Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. France). Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. India). Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan¹.

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. Turkey). Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America). Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya). Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

¹ This case was removed from the List before the Court had occasion to hear argument on the question of its jurisdiction.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway). Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America). Mr. M. Aghahosseini was chosen by the Islamic Republic of Iran¹.

Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal). Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc*.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. Australia). Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) was chosen by Portugal. Sir Ninian Stephen was chosen by Australia.

Passage through the Great Belt (Finland v. Denmark). Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain). Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernárdez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case. Bahrain subsequently chose Mr. M. Shahabuddeen (Guyana). After the resignation of Mr. Shahabuddeen, Bahrain chose Mr. Yves L. Fortier (Canada) to sit as judge *ad hoc*.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom). Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya. Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*. The latter has been sitting as such in the phase of the proceedings concerning jurisdiction and admissibility.

¹ Case removed from the List before the Court held occasion to hear argument on the preliminary objections raised by the United States.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America). Mr. A. S. El-Koshi (Egypt) was chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. United States of America). Mr. F. Rigaux (Belgium) was chosen by the Islamic Republic of Iran.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro). Sir Elihu Lauterpacht (United Kingdom) was chosen by Bosnia and Herzegovina. Following his resignation, on 22 February 2002, Mr. Ahmed Mahiou (Algeria) was chosen by Bosnia and Herzegovina. Mr. M. Kreća was chosen by Serbia and Montenegro.

Gabčíkovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) was chosen by Slovakia.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening). Mr. K. Mbaye (Senegal) was chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Fisheries Jurisdiction (Spain v. Canada). Mr. S. Torres Bernárdez was chosen by Spain and Mr. M. Lalonde by Canada.

Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case. Sir Geoffrey Palmer was chosen by New Zealand.

Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria). Preliminary Objections (*Nigeria v. Cameroon*). Prince B. A. Ajibola was chosen by Nigeria and Mr. K. Mbaye (Senegal) by Cameroon.

Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). Mr. M. Shahabuddeen (Guyana) was chosen by Indonesia. Following the resignation of Mr. Shahabuddeen, Mr. Thomas Franck (United States of America) was chosen by Indonesia. Mr. C. G. Weeramantry (Sri Lanka) was chosen by Malaysia.

Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo). Mr. Mohammed Bedjaoui (Algeria) was chosen by the Republic of Guinea and Mr. Auguste Mampuya Kanunk'A-Tshiabo by the Democratic Republic of the Congo. Following the resignation of Mr. Bedjaoui, on 10 September 2002, Mr. Ahmed Mahiou (Algeria) was chosen by the Republic of Guinea.

Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) (Yugoslavia v. Spain) (Serbia and Montenegro v. United Kingdom) (Yugoslavia v. United States of America). In all ten cases Serbia and Montenegro [Yugoslavia] chose Mr. M. Kreća; in the case of *Serbia and Montenegro v. Belgium*, Mr. P. Duinslaeger was chosen by Belgium; in the case of *Serbia and Montenegro¹ v. Canada*, Mr. M. Lalonde was chosen by Canada; in the case of *Serbia and Montenegro v. Italy*, Mr. G. Gaja was chosen by Italy and in the case of *Yugoslavia v. Spain*, Mr. S. Torres Bernárdez was chosen by Spain. These have been sitting as such during the examination of Serbia and Montenegro's requests for the indication of provisional measures. In March 2000 Portugal indicated its intention to appoint a judge *ad hoc*. With regard to the phase of the procedure concerning the preliminary objections, the Court, taking into account the presence upon the Bench of judges of British, Dutch and French nationality, decided that the judges *ad hoc* chosen by the respondent States should not sit during that phase. The Court observed that this decision did not in any way prejudice the question whether, if the Court should reject the preliminary objections of the respondents, judges *ad hoc* might sit in subsequent stages of the cases.

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) (Democratic Republic of the Congo v. Rwanda). In all three cases Mr. Joe Verhoeven (Belgium) was chosen by the Democratic Republic of the Congo; in the case of *Democratic Republic of the Congo v. Burundi*, Mr. J. J. A. Salmon (Belgium) was chosen by Burundi; in the case of *Democratic Republic of the Congo v. Uganda*, Mr. James L. Kateka (Tanzania) was chosen by Uganda; and, in the case of *Democratic Republic of the Congo v. Rwanda*, Mr. C. J. R. Dugard (South Africa) was chosen by Rwanda.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro). Mr. B. Vukas was chosen by Croatia and Mr. M. Kreća by Serbia and Montenegro.

Aerial Incident of 10 August 1999 (Pakistan v. India). Mr. S. S. U. Pirzada was chosen by Pakistan and Mr. B. P. J. Reddy by India.

Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium). Mr. Sayeman Bula-Bula was chosen by the Democratic Republic of the Congo and Mrs. Christine Van den Wyngaert by Belgium.

Certain Property (Liechtenstein v. Germany). Mr. Ian Brownlie (United Kingdom) was chosen by Liechtenstein. Following his resignation, on 25 April 2002, Sir Franklin Berman (United Kingdom) was chosen by Liechtenstein. Mr. Carl-August Fleischhauer was chosen by Germany, Judge Simma being disqualified from sitting.

Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras). Mr. Giorgio Gaja (Italy) was chosen by Nicaragua and Mr. Julio González Campos (Spain) by Honduras.

Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (*Yugoslavia v. Bosnia and Herzegovina*). Mr. Vojin Dimitrijević was chosen by Yugoslavia. Mr. Sead Hodžić was chosen by Bosnia and Herzegovina. Following the resignation of Mr. Hodžić, on 9 April 2002, Bosnia and Herzegovina chose Mr. Ahmed Mahiou (Algeria).

Territorial and Maritime Dispute (Nicaragua v. Colombia). Mr. Yves L. Fortier was chosen by Colombia and Mr. Mohammed Bedjaoui (Algeria) by Nicaragua.

Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda). Mr. Jean-Pierre Mavungu Mvumbi-di-Ngoma was chosen by the Democratic Republic of the Congo and Mr. John Dugard (South Africa) by Rwanda.

Frontier Dispute (Benin Niger). Mr. Mohamed Bennouna (Morocco) was chosen by Benin and Mr. Mohammed Bedjaoui (Algeria) by Niger.

Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador Honduras: Nicaragua intervening) (El Salvador v. Honduras). Mr. Felipe H. Paolillo (Uruguay) was chosen by El Salvador and Mr. Santiago Torres Bernárdez (Spain) by Honduras.

Avena and Other Mexican Nationals (Mexico v. United States of America). Mr. Bernardo Sepúlveda was chosen by Mexico.

Certain Criminal Proceedings in France (Republic of the Congo v. France). Mr. Jean-Yves De Cara (France) was chosen by the Republic of the Congo and Mr. Gilbert Guillaume by France.

Sovereignty over Pedra Branca, Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore). Mr. Christopher J. Dugard (South Africa) was chosen by Malaysia and Mr. P. Sreenivasa Rao by Singapore.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five

judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber *ex officio*, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Shi Jiuyong; Vice-President Ranjeva; Judges Parra-Aranguren, Al-Khasawneh and Buergenthal, members; Judges Elaraby and Owada, substitute members.

2. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called "*ad hoc*" chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court, in July 1993, deemed it appropriate to establish a seven-member Chamber for Environmental Matters to deal with such cases as parties might refer to it in accordance with Article 26 of the Statute. The Chamber, whose current mandate runs to February 2006, is composed as follows: President Shi Jiuyong; Vice-President Ranjeva; and Judges Kooijmans, Rezek, Elaraby, Simma and Tomka.

3. Chambers Formed under Article 26, Paragraph 2, of the Statute

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with six cases. They are listed below with an indication

of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago (*President*), Gros, Mosler, Schwebel; Judges *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui (*President*), Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy): constituted on 2 March 1987 with the following composition – Judges Nagendra Singh (*President*), Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (*ex officio*) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990] intervening): constituted on 8 May 1987 with the following composition – Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara (*President*), Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

Frontier Dispute (Benin/Niger): constituted on 27 November 2002 with the following composition – Judges Guillaume (*President*), Ranjeva, Kooijmans; Judges *ad hoc* Bedjaoui, Bennouna. Following an election held on 16 February 2005 to fill the vacancy left by the resignation of Judge Guillaume, the composition of that Chamber was as follows: Judges Ranjeva (*President*), Kooijmans, Abraham; Judges *ad hoc* Bedjaoui, Bennouna.

Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras): constituted on 27 November 2002 with the following composition – Judges Guillaume (*President*), Rezek, Buergenthal; Judges *ad hoc* Torres Bernárdez, Paolillo.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Philippe Couvreur (see Chap. V, p. 184, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (1) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that "... if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy

all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 2004 to 31 July 2005 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 2005

President SHI Jiuyong

(Member of the Court since 6 February 1994; re-elected as from
6 February 2003; Vice-President of the Court from 2000 to 2003;
President since 6 February 2003)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing (1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of International Law, Foreign Affairs College, Beijing (1984-1993). Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988).

Before 2005, Adviser, then Honorary President (since 2005), Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing. Member, American Society of International Law. Member of the Consultative Council of *The Global Community: Yearbook of International Law and Jurisprudence*. President (since 2005) Curatorium of the Xiamen Academy of International Law. Co-chair (since 2002), Board of Honorary Editors, *Chinese Journal of International Law*.

Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993). Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference.

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the thirty-sixth, thirty-seventh and thirty-eighth sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations between the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative of the International Law Commission to the forty-fifth session of the United Nations General Assembly (1990). Expert from China, Senior Legal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 September 1991 at Nairobi. Representative of the International Law Commission to the thirtieth meeting of the Asian-African Legal Consultative Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (1994-1997).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures

on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September-October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France (May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Vice-President Raymond RANJEVA

(Member of the Court since 6 February 1991; re-elected as from 6 February 2000; member (2002-2005) and President (2005) of the Chamber formed to deal with the case concerning the *Frontier Dispute (Benin/Niger)*. Vice-President of the Court since 6 February 2003)

Born in Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme d'études supérieures de sciences politiques*,

University of Paris, Faculty of Law and Economic Science (1966). *Diplôme d'études supérieures de droit public*, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Doctor *honoris causa* of the Universities of Limoges and Strasbourg. Laureate of the University of Madagascar, of the National Association of Doctors of Law and of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas), the Institute of Advanced International Studies, La Réunion and Burundi, and the Free University of Brussels. Director of the French-speaking research seminar at the Hague Academy of International Law (1987); gave a course at the Hague Academy of International Law in 1997. Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Seabed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso Republic of Mali)* before the Court. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973) and in the case of SEDITEX INTERNATIONAL GmbH Hamburg/Republic of Madagascar.

Co-opted Member and Arbitrator of the Court of Arbitration for Sport.

Member and Vice-President of the Malagasy Academy of Sciences, Literature and Arts (1974); President of the ethics and political science section (1976-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988).

Member of the Board of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law. Member of the Scientific Council of the Agence universitaire de la Francophonie (AUPELF-UREF). Associate Member of the Institute of International Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Member of the Papal Council for Justice and Peace. Legal adviser to the Catholic Bishops' Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays, articles and of addresses at several conferences.

Judge Abdul G. KOROMA

(Member of the Court since 6 February 1994; re-elected as from 6 February 2003)

Born in Freetown, Sierra Leone.

LL.M. (Honours), Kiev State University; Master of Philosophy (International Law), King's College, University of London; Hon. LL.D., University of Sierra Leone; Barrister-at-Law, Honorary Benchers, Honourable Society of Lincoln's Inn, London.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accreditation to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992); also accredited to Republic of Korea (Seoul) and High Commissioner to Barbados, Jamaica and Trinidad and Tobago (1988).

As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as

delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; served as Chairman of the United Nations Special Committee on the granting of independence to colonial countries and peoples (Committee of 24); headed various United Nations missions on the observance of the exercise of the right of self-determination in various non-self-governing territories.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Played an active role in and contributed to the elaboration of various contemporary legal instruments. Member of the International Law Commission (January 1982-1994), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Relations between States and International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the draft articles on most-favoured-nation clauses; the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes; has written and lectured on these subjects. Served as expert consultant to the International Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law. Has delivered lectures on these topics in many countries, including Cameroon, Canada, China, Ethiopia, Germany, Greece, India, Japan, Malta, Norway, Peru, Republic of Korea, Sweden, the United Republic of Tanzania and the United States of America.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the

International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law and of the Planning Council of the International Ocean Institute (Halifax and Malta); Member and Vice-President of the African Association of International Law and Comparative Law; President of the African Society of International and Comparative Law; President, Henry Dunant Centre for Humanitarian Dialogue (Geneva) (since 1999); Associate Member of the Institute of International Law; Member of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Office (Geneva); Member of the Advisory Board of the *Manchester Journal of International Economic Law*.

The Order of Commander of Rokel was awarded by the Government of Sierra Leone for outstanding professional service (1991).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Among articles published: "Humanitarian Intervention and Contemporary International Law", *Swiss Review of International and European Law*, No. 4 (1995); "The Peaceful Settlement of International Disputes", *Netherlands International Review*, Vol. XLIII, 1996/7; "50th Anniversary of the Universal Declaration of Human Rights: Human Rights and International Humanitarian Law", *International Review of the Red Cross*, 1998; "The Influence of the Universal Declaration of Human Rights in Africa – Fifty Years after Its Adoption – A Legal Perspective", *Africa Legal Aid Quarterly*, 1998; "International Justice in Relation to the International Court of Justice", *Thesaurus Acroasium*, Vol. XXVI, Thessaloniki; "Implementation of the Law of the Sea Convention through Its Institutions: An Overview", in D. Vidas and W. Østreng (eds.), *Order for the Oceans at the Turn of the Century*; "The Humanitarian Consequences of Small Arms Proliferation", Paper delivered under the auspices of the Henry Dunant Centre for Humanitarian Dialogue; "The Future of the Common Heritage of Mankind", *1982 Convention on the Law of the Sea*, published by the Law of the Sea Institute, University of Hawaii, Honolulu; "Provisional Measures in Disputes between African States before the International Court of Justice", in *The International Legal System in Quest of Equity and Universality, Liber Amicorum Georges Abi-Saab*, ed. by Laurence Boisson de Chazournes and Vera Gowlland-Debbas, 2001; "Social Justice and the Role of an International Judge", Paper delivered at the Colloquium on Social Justice and International Law in Honour of Professor Georges Abi-Saab, 2001; Book Review on *Human Rights in Africa Series*, ed. Professor Christof Heyns, *Leiden Journal of International Law*, 2001; "Africa's Place in the International Justice System", Paper delivered at the 643rd Wilton Park Conference: Justice

in Africa, 2001; "Refugees: A Continuing Challenge", Paper delivered at the 25th Round Table on Current Problems of International Humanitarian Law, International Institute of Humanitarian Law, San Remo, 2001; "The Protection of Civilian Populations in Non-International Armed Conflicts", Paper delivered at the Third Meeting of Experts, International Institute of Humanitarian Law, Stockholm, 2001.

Judge Vladlen Stepanovich VERESHCHETIN

(Member of the Court since 26 January 1995; re-elected as from 6 February 1997)

Born in Briansk, Russian Federation, on 8 January 1932.

Graduated (with honours) from the International Law Faculty of the Moscow Institute of International Relations (1954). Post-graduate studies in international law at the same Institute (1955-1958). Candidate of Juridical Sciences (1959). Doctor of Juridical Sciences (1976). Professor of International Law (1982). *Maitre émérite des Sciences* of the Russian Federation (1995).

Staff member of the Presidium of the USSR Academy of Sciences (1958-1967). First Vice-Chairman and Legal Counsel, Intercosmos, USSR Academy of Sciences (1967-1981). Deputy Director and Head of the International Law Department of the Institute of State and Law, Russian Academy of Sciences, Moscow (1981-1995).

Member of the United Nations International Law Commission (1992-1995); Chairman of the Commission (1994). Member of the USSR delegations to the United Nations Committee on the Peaceful Uses of Outer Space and its Legal Sub-committee (1979-1990).

Member of the Permanent Court of Arbitration (1984-1995).

Has given lecture courses and individual lectures on the theory of international law, the peaceful settlement of international disputes, the law of the sea, the law of outer space and the law of international organizations at the Institute of International Relations, the Diplomatic Academy and the University of Friendship of Peoples (Moscow), the Juridical Institute (Ekaterinburg), the Institute of International Public Law and International Relations (Thessaloniki), the European University Institute (Florence), the Universities of Cleveland, Akron and Mississippi, the Institute of International Private and Public Law (The Hague) and the University of Dundee (Scotland). Has presented papers on different international law subjects at many national and international congresses and conferences.

Vice-President of the Russian (formerly Soviet) Association of International Law (1985-1997). Chairman of the Scientific Council on International and Comparative Law at the Institute of State and Law, Russian Academy of Sciences (1981-1995). Vice-President of the Russian (formerly Soviet) United Nations Association (1984-1997). Vice-President (1978-1995), Honorary Director of the International Institute of Space

Law. Member of the Policy and Finance Committee of the International Law Association (1990-2002). Member, Board of Directors of the International Institute of Air and Space Law, Leiden University (1995-2004). Member, International Advisory Board of same Institute (since 2004). Member (since 1977), Trustee (1985-1996) of the International Academy of Astronautics.

Member of the editorial and advisory boards of the *Russian Law Journal*, the *Journal of Space Law* (United States), the *Chinese Journal of International Law* and *The International Lawyer* (Moscow).

Orders and awards: "Badge of Honour" (1967), "Friendship of Peoples" (1975), "October Revolution" (1981), Honorary Awards of the German Academy of Sciences at Berlin (1978), the Bulgarian Academy of Sciences (1979), the International Academy of Astronautics (1987, 1994), the International Institute of Space Law (1995), the Russian Association of International Law (1995), Hugo Grotius Medal (2001).

Author of more than 150 works and articles on international law published in Russia and abroad, including seven-volume *Course of International Law*, Moscow, 1989-1993 (Deputy Editor-in-Chief of the course and co-author).

Judge Rosalyn HIGGINS

(Member of the Court since 12 July 1995; re-elected as from 6 February 2000)

Born in London, United Kingdom, on 2 June 1937.

Married to the Rt. Hon. the Lord Higgins, KBE, DL.

Dame Commander of the British Empire (1995).

Fellow of the British Academy; Fellow of the American Academy of Arts and Sciences.

B.A. (Cantab.) 1st Class (1959); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961); LL.B. (Cantab.) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab.) (1962); Honorary Fellow of London School of Economics and of Girton College, Cambridge.

Rockefeller Foundation Fellowship (1961); Vols. I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; British Academy Award (1977-1978); Honorary Doctorate of the University of Paris XI (1980), University of Dundee (1992), University of Durham and the London School of Economics (1995), University of Cambridge, University of Kent, University of Essex, University of Sussex, University of Greenwich and London City University (1996), University of Birmingham, University of Leicester, and University of Glasgow (1997), University of Nottingham (1999), University of Oxford (2002), University of Reading (2003). Received the 1995 Certificate of Merit of the American Society of International Law for *Problems and Process: International Law and*

How We Use It, Wolfgang-Friedman Medal for services to International Law, Colombia University (1985); Harold Weil Medal, New York University (1995); *Chevalier d'Ordre des Palmes Académiques* (1988); Honorary Life Membership Award, American Society of International Law (1992); Yale Law School Medal of Merit (1997) and the Manley O. Hudson Medal (1998).

United Kingdom Intern, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960); Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Barrister, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *East Timor (Portugal v. Australia)*; *Territorial Dispute (Libyan Arab Jamahiriya v. Chad)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*; *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*.

Member, Arbitral Tribunal: Arbitration between Eritrea and Yemen; Territorial Sovereignty (1998); Maritime Delimitation (1999); President, AMCO Asia Indonesia, resubmitted case, Award on Jurisdiction (1988); *ibid.*, Award on Merits (1992); President, Iron Rhine Arbitration (Belgium v. Netherlands) (2003-2005); President, Capital Power Mauritius I and Energy Enterprises (Mauritius) Company v. Republic of India (2004-2005).

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman (since 1992), Public International Law Advisory Board, British Institute for International and Comparative Law, and Vice-President of the Institute (since 2002); Hon. life Vice-President of the American Society of International Law (1993).

Board of Editors of the *American Journal of International Law* (1975-1985), and ex officio (since 2003); of the *Journal of Energy and Natural Resources Law*; and of the *British Year Book of International Law*.

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom*

Foreign Policy through the United Nations, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol. IV, *Europe*, 1981; *Law in Movement - Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994. Also author of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

Judge Gonzalo PARRA-ARANGUREN

(Member of the Court since 28 February 1996; re-elected as from 6 February 2000)

Born in Caracas, Venezuela, on 5 December 1928.

Degree in juridical and political sciences (*summa cum laude*) at the Central University of Venezuela (1950); postgraduate course in comparative law and jurisprudence (LL.M.) at the Inter-American Law Institute, New York University (1951-1952); Doctor of Law ("*doktor iuris*") (*cum laude*) at the Ludwig-Maximilians University, Munich (1955).

Professor at the Central University of Venezuela, Caracas, teaching private international law (1956-1996); has taught that same course at Andrés Bello Catholic University in Caracas (1957-1996).

Judge in the Second Court of First Instance (commercial matters), Federal District and State of Miranda, Caracas (1958-1971); first associate judge (1988-1992) in the Chamber of Cassation (civil, commercial and labour matters) of the Supreme Court of Justice; alternate judge of the same Chamber (1992-1996). Has acted as arbitrator, both in Venezuela and abroad, in the latter case regarding international commercial matters of a private nature; on several occasions has testified in foreign courts as an expert on Venezuelan law.

Member of the Commission of Inquiry appointed in 1985 by the Governing Body of the International Labour Office to consider the implementation by the Federal Republic of Germany of the ILO Discrimination (Employment and Occupation) Convention (1958, No. 111); the report was submitted in 1986, but he did not endorse its recommendations.

Member of the Permanent Court of Arbitration (since 1985).

Member of the legislative committees that drafted the section on Venezuelan nationality in connection with the Constitution that was approved in 1961; the draft law on private international law (1963) and its subsequent revision in 1965 that was essentially reproduced in the

Venezuelan Private International Law Act 1998; and the revised draft sections of the Code of Commerce dealing with credit instruments and bankruptcy respectively (1963-1965).

Member of the Legal Advisory Committee of the Ministry of Foreign Affairs (1984-1996) and of the Legal Advisory Council of the National Congress (1990-1996).

Member of the Institut de droit international (elected in 1979).

Member of the Academy of Political and Social Sciences of Caracas (since 1966) and its President (1993-1995). Corresponding Member of the Uruguayan International Law Association (1978); Corresponding Member of the Argentine International Law Association (1981); Corresponding member of the National Academy of Law and Social Sciences of Córdoba, Argentine Republic (1982); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation of Granada, Spain (1994); Corresponding member of the Mexican Academy of Jurisprudence and Legislation corresponding to that of Spain (1994); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation, Madrid (1994); Member of the "Deutsche Gesellschaft für Völkerrecht" (1998).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1982-1993); elected again in 1996 for one year. Honorary Member of the same Council (1993).

Former Member of the editorial board of the *Revista del Colegio de Abogados del Distrito Federal*, Caracas, and of the editorial board of the *Revista de la Facultad de Derecho de la Universidad Católica Andrés Bello*, Caracas (from its establishment until 1996). Correspondent for the *Netherlands International Law Review* (since 1987).

Taught the General Course on Private International Law at the Hague Academy of International Law (1988), and has given lectures in various countries: in Curaçao, at the commemoration of the centenary of the Introduction of the Civil Code and the Installation of the High Court of Justice (1969); at the course on international law (Rio de Janeiro, 1978, 1979, 1982, 1988, 1992 and 1997), organized by the Inter-American Juridical Committee and the Brazilian Foundation "Gétulio Vargas"; at the Hague Academy of International Law, on "Recent Developments of Conflict of Laws Conventions in Latin America" (1979); at the "Journeys of International Law" (Salamanca, November 1992); at the seminar on "Principles for the International Commercial Contracts", prepared by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, December 1993); at the working meeting on the "Reviews and Books for the Unification of the Latin-American Juridical System" (Rome, December 1993); at the Eighth World Conference of the International Society of Family Law (Cardiff, June 1994); at the Congress on Children on the Move, organized by the Dutch committee of the International Year of the Family in collaboration with the Hague Conference on Private International Law (The Hague, October 1994); at the seminar on "Adoption, an Act of Love", organized by the Colombian Institute for Family Welfare (Bogotá, June 1995); at the

Symposium "Il nuovo Diritto Internazionale Privato Italiano", University of Padua (1996); at the Symposium "Globalization of Child Law: The Role of the Hague Convention" (The Hague, September 1997); and at the "Civil Law Congress", organized by the Bar Association of Puerto Rico (1998).

Co-Chairman of the Committee on Private International Law, during the Sixteenth Session of the Inter-American Lawyers Federation (Caracas, 1969). Reporter at the "First Latin-American Journeys of International Law", at the Andrés Bello Catholic University (Caracas, 1979); at the Twelfth Congress of the Hispano-Luso Institute of International Law (Merida, Venezuela, 1980); at the International Seminar on Adoption (Caracas, 1996); and at the Inter-American Congress "Towards a New Regulation of the International Contracts" (Valencia, Venezuela, 1996).

Representative for Venezuela at the International Association of Legal Science and the German Society for Comparative Law (Treveris, Federal Republic of Germany, 1961); and at the third meeting of the Joint Venezuelan-Spanish Commission (Madrid, 1974).

Representative for Venezuela at the first Inter-American Specialized Conference on Private International Law (CIDIP-I, Panama, 1975), being Vice-Chairman of the Second Committee; at the second such Conference (CIDIP-II, Montevideo, 1979), being Chairman of the Second Committee; at the third and fourth such Conferences (held, respectively, CIDIP-III in La Paz, Bolivia, 1984, and CIDIP-IV in Montevideo, 1989), being Chairman of the Second Committee; and at the fifth such Conference (CIDIP-V, Mexico City, 1994), being Chairman of the First Committee.

Member of the Committees of Experts that met in Washington, D.C., in 1980 in preparation for the Third Inter-American Specialized Conference on Private International Law (CIDIP-III); in Tucson, Arizona, 1993, in preparation for the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V); and in Washington, D.C. (1995, 1996) to prepare the Inter-American Convention against Corruption.

Representative of Venezuela at the Hague Conference on Private International Law: thirteenth session (1976-1977); fourteenth session (1980); fifteenth session (1984); special session (1985); sixteenth session (1988); and the seventeenth session (1993); member of the special working group and Special Commission (April and October 1994, respectively) to study the application of the Convention of 1993 to minors who are refugees; and of the Special Commission (second meeting, June 1995) on the protection of minors and incompetent adults and of the Special Commission on maintenance obligations (November 1995). Elected one of the five Vice-Chairmen at the fifteenth and sixteenth sessions.

Rapporteur of the Special Commission of the seventeenth session of the Hague Conference on Private International Law and, in pursuance of these functions, prepared the preliminary report (1992) and the explanatory report on the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 29 May 1993.

Author of the following books: *Die Regel "Locus Regit Actum" und die Formen der Testamente*, 1955; *La Nacionalidad Venezolana Originaria*, Vols. I and II, 1964; *La Constitución de 1830 y los Venezolanos por Naturalización*, 1969; *Codificación del Derecho Internacional Privado en América*, Vol. I, 1982, Vol. II, 1998; *La Nacionalidad Venezolana: I. Antecedentes Históricos*, 1983; *La Influencia del Matrimonio sobre la Nacionalidad de la Mujer en la Legislación Venezolana*, 1983; *La Nacionalidad Venezolana: II. Problemas Actuales*, 1983; *Monografías Selectas de Derecho Internacional Privado*, 1984; *Ensayos de Derecho Procesal Civil Internacional*, 1986; *Curso General de Derecho Internacional Privado (Problemas Selectos)*, 1991; *Curso General de Derecho Internacional Privado. Problemas Selectos y Otros Estudios*, 1992; *Curso General de Derecho Internacional Privado. Problemas selectos y Otros Estudios*, Tercera Edición Revisada, 1998; *Estudios de Derecho Procesal Civil Internacional*, 1998; *Escritos Diversos de Derecho Internacional Privado*, 1998; *Estudios de Derecho Mercantil Internacional*, 1998.

Has also published numerous articles on the law of nationality, private international law and international civil procedural law in Venezuelan and foreign journals.

Judge Pieter Hendrik KOOLMANS

(Member of the Court since 6 February 1997)

Born at Heemstede, Netherlands, on 6 July 1933.

Econ. B. (1955), LL.M. (with honours) (1957), Dr. Iuris, Free University, Amsterdam (with honours) (1964).

Professor of Public International Law and European Law, Free University, Amsterdam (1965-1973). Professor of Public International Law, University of Leiden (1977-1992, 1995-1997).

State Secretary for Foreign Affairs of the Netherlands (1973-1977). Minister for Foreign Affairs of the Netherlands (1993-1994).

Member of the Netherlands delegation to the General Assembly of the United Nations (1967, Sixth Committee), Vice-Chairman (1973-1977), Chairman (1993). Head of the Netherlands delegation to various sessions of the Third United Nations Conference on the Law of the Sea (1974-1977), to the First Review Conference of the Non-Proliferation Treaty (1975), to the Geneva Diplomatic Conference on humanitarian law in armed conflict (1975) and to the United Nations Conference on *Apartheid* (1977). Head of the Netherlands delegation to the United Nations Commission on Human Rights (1982-1985, 1992).

Chairman of the United Nations Commission on Human Rights (1984-1985). Special Rapporteur of the United Nations Commission on Human Rights on Questions relevant to Torture (1985-1992).

Member of various United Nations and Conference on Security and Co-operation in Europe (CSCE) missions to the former Yugoslavia (1991-1992).

Member of the Group of International Advisors of the International Committee of the Red Cross.

Member and former Chairman of the Netherlands Branch of the International Law Association. Member of the Institut de droit international.

Former positions: Member of the Permanent Court of Arbitration. Chairman of the Supervisory Board of the Netherlands Research Center for African Studies. Vice-President of the European Cultural Foundation. Chairman of the Board of the Carnegie Foundation. Chairman of the Administrative Council of the Hague Academy of International Law. Chairman of the Board of the Netherlands Disaster Relief Agency. Chairman of the Supervisory Board of the Netherlands Refugee Foundation. Chairman of the Netherlands Foundation for support to the democratic institutions of the new South Africa. Vice-Chairman of the Dutch Evangelical Party (merged in 1980 with two other parties into the Christian Democratic Party). Chairman of the Foreign Affairs Committee of the Christian Democratic Party. Member of the Steering Committee of the International Crisis Group. Member of the Advisory Committee on Questions of International Law (Dutch Ministry of Foreign Affairs). Member of the Advisory Council on Questions of Peace and Security (Dutch Ministries of Foreign Affairs and Defence). Member of the Board of Editors of the *Netherlands International Law Review*. Chairman of the Board of the Institute of Social Studies (postgraduate school on questions of development). Chairman of the Board of the Netherlands Institute of Peace-related Issues. Vice-Chairman of the Advisory Commission on Questions of Aliens (quasi-judicial body, Dutch Ministry of Justice). Chairman of the Advisory Committee on Questions of Disarmament (Dutch Ministry of Foreign Affairs). Member of the Advisory Defence Council (Dutch Ministry of Defence). Member of various advisory commissions on the Codification of the Law of Aliens and of Refugees (Dutch Ministry of Justice).

Lecturer at the Hague Academy of International Law (1976 and 1991).

Author of numerous publications on international law.

Judge Francisco REZEK

(Member of the Court since 6 February 1997)

Born in Cristina, Minas Gerais (Brazil), on 18 January 1944.

LL.B (1966). D.E.S. (1967): Federal University of Minas Gerais (Belo Horizonte, MG). Docteur de l'Université de Paris-Sorbonne (1970). Diploma in Law, University of Oxford (1979).

Courses and research programmes: Harvard University (1965); the Hague Academy of International Law (1968, 1970).

Professor of International Law and Constitutional Law at the University of Brasilia (1971-1997). Chairman of the Department of Law

(1974-1976). Dean of the Faculty of Social Studies (1978-1979). Professor of International Law at Rio Branco Institute (the official diplomatic school of Brazil) (1976-1997). Lecturer at the Hague Academy of International Law (1986) and at the Institute of International Public Law and International Relations, Thessaloniki (1989).

President of conferences, lecturer and examiner in contests for professorship in the major Brazilian universities (since 1971).

Attorney of the Republic before the Supreme Court of Brazil (1972-1979); Deputy Attorney-General of the Republic (1979-1983). Justice of the Supreme Court of Brazil, appointed by the President with approval of the Senate, March 1983, at the age of 39. Resigned in March 1990. Appointed again in April 1992 for life, retired in 1997.

Foreign Minister of Brazil (from March 1990 to April 1992).

Member of the Permanent Court of Arbitration (1987-2004).

Published works: *Direito dos Tratados*, 1984; *Direito Internacional Público*, 1st ed., 1989, 9th ed., 2001; *Droit des traités: particularités des actes constitutifs d'organisations internationales*, 1968; *La conduite des relations internationales dans le droit constitutionnel latino-américain*, 1970; "Aspectos elementares do Estatuto da Igualdade", in *Boletim do Ministério da Justiça*, No. 277, 1978; "Reciprocity as a Basis of Extradition", in *British Year Book of International Law*, Vol. 52, 1981; "Protection of the Victims of Armed Conflicts: Wounded, Sick and Shipwrecked", in *International Dimensions of Humanitarian Law*, Unesco, Institut Henry Dunant, 1988 (preceded by a French edition, 1986); "Le droit international de la nationalité", Hague Academy of International Law, *Recueil des cours*, Vol. 198, 1986; "Sur le fondement du droit des gens", in *Essays in Honour of Krzysztof Skubiszewski*, 1996; "A New International Order", in *Review of International Affairs*, 1990; "Una política comercial para los nuevos tiempos", in *Revista Latinoamericana de Integración*, 1991; "Imunidade do Estado Estrangeiro à Jurisdição Local", in *Hector Gross Espiel liber amicorum*, 1997.

About 55 monographs and other legal studies published in specialized periodicals in Brazil. More than 300 advisory opinions pronounced on behalf of the Public Ministry in cases put before the Supreme Court of Brazil and published in its quarterly Report (1972-1983). More than 500 decisions or dissenting opinions pronounced in the Supreme Court of Brazil and published in its quarterly Report and in other periodicals (1983-1995).

Judge Awn Shawkat AL-KHASAWNEH

(Member of the Court since 6 February 2000)

Born in Amman, Jordan, on 22 February 1950.

Primary and secondary education at the Islamic Educational College of Amman. University education at Cambridge University (Queens'

College), history and law, postgraduate studies in international law. M.A. LL.M. (Cantab.)

Joined the Jordanian diplomatic service in 1975. Second Secretary, then First Secretary at the Permanent Mission of Jordan to the United Nations in New York (1976-1980). Ministry of Foreign Affairs with special responsibility for international organizations and international law (1980-1985). Head of the Legal Department at the Ministry of Foreign Affairs (1985-1990). Seconded to the Royal Court (1990). Ambassador (1992). Adviser to the King and Adviser of the State on International Law with the rank of Cabinet Minister (1995). Chief of the Royal Hashemite Court (1996-1998).

Member of the Jordanian Royal Commission on Legislative and Administrative Reform (1994-1996). Chairman of the Jordanian National Group on the Implementation of International Humanitarian Law (since 1998).

Representative of Jordan at 19 sessions of the General Assembly of the United Nations (the Sixth (Legal) Committee) (since 1976). Jordan's alternate representative on the Security Council (1981-1982). Member of most Jordanian delegations to meetings of the Arab League, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference held in the years 1980-1988. Member of, and Legal Adviser to, the Jordanian delegation to the peace negotiations in the Middle East (1991-1994).

Representative of Jordan at the following conferences and committees in the field of the codification and progressive development of international law: *Ad Hoc* Committee on the Drafting of an International Convention against the Taking of Hostages (1977-1980); United Nations Conference on Succession of States in Respect of Treaties, Second Session (1978); United Nations Conference on Succession of States in Respect of State Property, Archives and Debts (1982); Chairman of the Drafting Committee at the United Nations Conference on Treaties between States and International Organizations or between International Organizations (1986). Rome Conference on the drafting of a Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988).

Member of the Arab International Law Commission (1982-1989).

Member of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities (1984-1993). Chairman of the Sub-Commission (1993).

Special Rapporteur of the Commission on Human Rights on the human rights dimensions of forcible population transfer.

Chairman of Commission IV, Unesco General Conference (1993).

Member of the International Law Commission (1986-1999).

Member of the Permanent Court of Arbitration (since 1999).

Member of the International Law Association, Chairman of the Committee on Islamic Law and International Law (since 2003).

Member of the Board of Editors, *Palestine Yearbook of International Law*.

Member of the Council of the Centre of Islamic and Middle Eastern Law at the School of Oriental and African Studies, University of London.

Lectured and participated widely in academic seminars at various universities, including Oxford, Cambridge, London, Geneva and universities in Jordan.

Publications: Three reports on the human rights dimensions of forcible population transfers, to the Subcommission on Prevention of Discrimination and Protection of Minorities (1993-1997); "General Principles and Methods for Executing a New Convention", in *Environmental Protection and the Law of War*, London, New York, 1992; "The International Law Commission and Middle East Waters", in *Water in the Middle East: Legal, Political and Commercial Implications*, London, New York, 1995.

Honours: Istiqlal Order, First Class (1993); Kawkab Order, First Class (1996); Nahda Order, First Class (1996) (Jordan). Légion d'honneur, Grand Officier (1997) (France).

Judge Thomas BUERGENTHAL

(Member of the Court since 2 March 2000)

Born in Lubochna, Slovakia (United States national), on 11 May 1934. B.A., Bethany College, West Virginia (1957); Juris Doctor, New York University School of Law (Root Tilden Scholar) (1960); Master of Laws, Harvard Law School (1961); Doctor of Juridical Science, Harvard Law School (1968). Honorary Doctorates in Law: Bethany College (1981), University of Heidelberg (1986), Free University of Brussels (1994), State University of New York (Buffalo) (2000), American University Washington College of Law (2002), University of Minnesota (2003) and George Washington University Law School (2004).

Member of the Bars of the State of New York, District of Columbia, and United States Supreme Court.

Professor of Law, State University of New York (Buffalo) School of Law (1962-1975); Fulbright and Jaworski Professor of International Law, University of Texas School of Law (1975-1980); Dean and Professor of International Law, American University Washington College of Law (1980-1985); I. T. Cohen Professor of Human Rights, Emory University School of Law, and Director, Human Rights Program of the Carter Center (1985-1989); Lobingier Professor of Comparative Law and Jurisprudence and Presiding Director, International Rule of Law Center, The George Washington University Law School (1989-2000).

Judge and President, Inter-American Court of Human Rights (1979-1991); Judge and President, Administrative Tribunal, Inter-American Development Bank (1989-1994); Member, United Nations Truth Commission for El Salvador (1992-1993); Member, United Nations Human Rights Committee (1995-1999); Member, Panels of Conciliators and of

Arbitrators, International Centre for Settlement of Investment Disputes, World Bank (since 1997); Arbitrator (1997-2000) and Vice-Chairman (1999-2000), Claims Resolution Tribunal for Dormant Accounts in Switzerland.

Chairman, United States Government Delegation to Unesco Specialized Conference on International Education (1974); Chairman, Human Rights Committee, United States National Commission for Unesco (1976-1979); Chief United States Representative, Unesco Executive Board Working Group on Human Rights Procedures (1977/1978); Member, Advisory Board, President's Commission on the Holocaust (1978-1979); Vice-President, Unesco Congress on the Teaching of Human Rights, and Chairman, United States Delegation to the Congress (Vienna, 1978); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Copenhagen (1990); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Expert Meeting on Democratic Institutions, Oslo (1991); Member, United States Holocaust Memorial Council (1996-2000) and Chairman of its Committee on Conscience (1997-2000).

Rapporteur, Study Panel on International Human Rights Law and Its Implementation, American Society of International Law (1970-1975); Member, Board of Directors, International Institute of Human Rights (René Cassin Foundation), Strasbourg, France (1970-1989); Member, Executive Council (1977-1980; 1986-1989), Vice-President (1980-1982), Honorary Vice-President (1994-1999), Honorary President (since 2001), American Society of International Law; Associate Reporter (1978-1980), Member, Advisory Committee (1980-1986), American Law Institute, Restatement (Third) on the Foreign Relations Law of the United States; Chairman, Human Rights Committee, International Law and Practice Section, American Bar Association (1981-1982; 1991-1992); Member, Standing Committee on World Order under Law, American Bar Association (1997-1999); Member, Administrative Council, Blaustein Institute of Human Rights (1996-2000); Member, Kuratorium and Scientific Council, Max Planck Institute for Public International Law, Heidelberg, Germany (1984-2002); Founder and President, Inter-American Institute of Human Rights (1980-1992), Honorary President (since 1992); Vice-Chairman, Academic Council, Institute of Transnational Arbitration (1998-2003), Honorary Chairman (since 2004). Member, Executive Committee, American Bar Association Centre for Human Rights (since 2003).

Member of the American Bar Association, American Society of International Law, American Law Institute, Council on Foreign Relations, German Society of International Law.

Pro-Humanitas Prize, West-Ost Kulturwerk (Federal Republic of Germany) (1978); Unesco Human Rights Prize (First Honourable Mention) (1978); Book Award (First Prize) of the Inter-American Bar Association for *Protecting Human Rights in the Americas: Selected Problems* (1982); Distinguished Service in Legal Education Award (1987);

Alumni Achievement Award (2005), New York University Law School Association; Wolfgang G. Friedmann Memorial Award for Outstanding Achievement in International Law, Columbia University Law School (1989); Harry Leroy Jones Award for Outstanding Achievements in Foreign and International Law, Washington Foreign Law Society (1990); Human Rights Prize, Jacob Blaustein Institute for the Advancement of Human Rights (1997); Goler T. Butcher Medal for Excellence in Human Rights, American Society of International Law (1997); Manley O. Hudson Medal, American Society of International Law (2002).

Member, Editorial Boards: *American Journal of Comparative Law* (1966-1977); *American Journal of International Law*; *Human Rights Law Journal*; *Europäische Grundrechte Zeitschrift*; *Revue universelle des droits de l'homme*; *Encyclopedia of Public International Law* (R. Bernhardt, ed.); and *Anuario Mexicano de Derecho Internacional*.

Author of numerous books, essays and articles. Books include, *inter alia*: *Law-Making in the International Civil Aviation Organization*, 1969; *International Protection of Human Rights* (with L. B. Sohn), 1973; *International Human Rights* (with D. Shelton and D. Stewart), 3rd ed., 2002; *Protecting Human Rights in the Americas* (with D. Shelton), 4th ed., 1995; *Grundzüge des Völkerrechts* (with Kokott and Doebring), 3rd ed., 2003.

Judge Nabil ELARABY

(Member of the Court since 12 October 2001)

Born in Egypt on 15 March 1935.

Licence en droit, Faculty of Law, Cairo University (1955). L.L.M. (Master in International Law), New York University Law School (1969). J.S.D. (Doctor of Juridical Science), New York University Law School (1971). Adlai Stevenson Fellow in International Law, United Nations Institute for Training and Research (UNITAR) (1968). Special Fellow in International Law, UNITAR (1973).

Lecturer in international law and international organizations, Institute for Diplomatic Studies, Egyptian Ministry of Foreign Affairs, Cairo. Partner, Zaki Hashem & Partners, Attorneys at Law.

Legal Adviser to the Egyptian delegation to the United Nations Geneva Middle East peace conference (1973-1975). Legal Adviser and Director, Legal and Treaties Department, Ministry of Foreign Affairs, Cairo (1976-1978, 1983-1987). Legal Adviser to the Egyptian delegation to the Camp David Middle East peace conference (1978). Head of the Egyptian delegation to the *Taba* negotiations (1985-1989). Agent of the Egyptian Government to the Egyptian-Israeli arbitration tribunal (*Taba* dispute) (1986-1988). Appointed by the Egyptian Minister of Justice on the list of arbitrations in civil and commercial affairs in Egypt (since 1995).

Ambassador, Deputy Permanent Representative of Egypt to the United Nations in New York (1978-1981). Ambassador to India (1981-1983).

Permanent Representative of Egypt to the United Nations Office at Geneva (1987-1991). Permanent Representative of Egypt to the United Nations in New York (1991-1999).

Chairman, United Nations Special Committee on Enhancing the Principle of the Prohibition of the Use of Force in International Relations (1981-1982). Chairman, Special Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization (1983). Chairman, Working Group on Legal Instruments, United Nations Conference on Environment and Development, Rio de Janeiro (1992). Chairman, Informal Working Group on an Agenda for Peace (1992-1996). Chairman, First (disarmament and international security questions) Committee of the United Nations General Assembly (Forty-seventh Session). Vice-President of the General Assembly (1993, 1994, 1997). President of the United Nations Security Council (June 1996).

Judge, Judicial Tribunal of the Organization of Arab Petroleum Exporting Countries (since 1990). Member of the International Law Commission of the United Nations (1994-2001). Commissioner at the United Nations Compensation Commission in Geneva (1999-2001).

Arbitrator at the International Chamber of Commerce International Court of Arbitration in Paris in a dispute concerning the Suez Canal (1989-1992). Member of the World Intellectual Property Organization Arbitration and Mediation Centre List of Neutrals. Member of the Board, Cairo Regional Centre for International Commercial Arbitration.

Participant in the workshop entitled "The Adaptation of Structures and Methods at the United Nations" given at the Hague Academy of International Law (1985). Lectured at the Hague Academy of International Law, Columbia University, New York University, Duke University, Yale University, University of Pennsylvania, University of Houston, American Society of International Law, New York Bar Association, Greek Institute of International Law and International Peace Academy in New York and Vienna. Keynote Speaker at the Institut universitaire de hautes études internationales (1993): "The United Nations and the New World Order", Geneva and at the Vienna Diplomatic Academy (1995). Panellist at several annual meetings of the American Society of International Law (1980-1997).

Member of the Board of Trustees, American University in Cairo. Member of the Board, Egyptian Society of International Law. Member, American Society of International Law. Commissioner, Canberra Commission on the Elimination of Nuclear Weapons. Member, Board of Directors of the Institute of World Affairs, New York. Honorary Senior Fellow, Center for International Studies, New York University Law School (1992-1993). Visiting Scholar, Robert Wagner School of Public Service, New York University. Member of the Governing Board of the Stockholm International Peace Research Institute (SIPRI) (since 2001).

Author of numerous publications.

Judge Hisashi OWADA

(Member of the Court since 6 February 2003)

Born in Niigata, Japan, on 18 September 1932.

B.A., University of Tokyo (1955). LL.B., Cambridge University (1956). D. Phil. *honoris causa*, Keiwa University, Japan (2000). LL.D. *honoris causa*, Banaras Hindu University, India (2001). LL.D. *honoris causa*, Waseda University, Japan (2004).

Entered the Foreign Service of Japan in 1955. Official, Legal Affairs Division, Ministry of Foreign Affairs (1959-1963). First Secretary, Permanent Mission of Japan to the United Nations (1968-1971). Private Secretary to the Minister for Foreign Affairs of Japan (1971-1972). Director, United Nations Political Affairs Division, Ministry of Foreign Affairs (1972-1974); Director, Treaties Division (1974-1976), Ministry of Foreign Affairs. Private Secretary to the Prime Minister of Japan (1976-1978). Minister, Embassy of Japan in Washington (1979-1981). Minister, Embassy of Japan in Moscow (1981-1984). Director General, Treaties Bureau (Principal Legal Adviser), Ministry of Foreign Affairs (1984-1987). Ambassador, Permanent Representative of Japan to the OECD (1988-1989). Deputy Minister, Ministry of Foreign Affairs (1989-1991). Vice-Minister for Foreign Affairs (1991-1993). Ambassador, Permanent Representative of Japan to the United Nations (1994-1998). Special Adviser to the Minister for Foreign Affairs of Japan (1999-2003).

Member of the Japanese Delegation to the Second United Nations Conference on the Law of the Sea (1960). Alternate Representative of Japan to the United Nations Conference on the Law of Treaties (1968-1969). Head of the Japanese Delegation to the Committee on Peaceful Uses of the Sea Bed and Ocean Floor (1968-1972). Head of the Japanese Delegation to the Legal Sub-Committee of the United Nations Committee on Peaceful Uses of Outer Space (1968-1970). Head of the Japanese Delegation to the United Nations Special Committee on Friendly Relations (1968-1970); Chairman of the Drafting Committee of the Special Committee (1970). Rapporteur of the Sixth Committee of the United Nations General Assembly, Twenty-fifth Session (1970). Member of the Japanese Delegation to the United Nations General Assembly, Twenty-third to Twenty-fifth Sessions (Sixth Committee) (1968-1970). Alternate Representative of Japan to the United Nations General Assembly, Twenty-seventh to Twenty-eighth Sessions (1972-1973). Alternate Representative of Japan to the Third United Nations Conference on the Law of the Sea (1973-1982). Adviser to the Japanese Delegation to the United Nations General Assembly, Thirty-ninth to Forty-first (1984-1986) and Forty-fourth to Forty-fifth Sessions (1989-1990). Representative of Japan to the United Nations General Assembly, Forty-ninth to Fifty-third Sessions (1994-1998). Representative of Japan to the World Summit for Social Development in Copenhagen (1994). Representative of Japan to the Fourth World

Conference on Women in Beijing (1995). Representative of Japan to the Assembly of Heads of State and Government, Organization of African Unity, 31st to 33rd Sessions (1995-1997). Representative of Japan to the General Assembly of the Organization of American States (1996). Representative of Japan to the United Nations Security Council (1997-1998). President of the Security Council (1997-1998). Representative of Japan to the Ministerial Meeting of the Non-Aligned Movement (1997-1998). Representative of Japan to the Summit Meeting of the Non-Aligned Movement (1998). Head of the Japanese Delegation to the United Nations Diplomatic Conference on the Establishment of an International Criminal Court (1998).

President of the Japan Institute of International Affairs (1999-2003). Senior Adviser to the President of the World Bank (1999-2000). Member of the Permanent Court of Arbitration (since 2001).

Visiting Professor of International Law, Harvard Law School (1979-1981, 1987, 1989, 2000-2002). Adjunct Professor of International Law and Organizations, University of Tokyo (1963-1965, 1971-1976, 1984-1988). Inge Rennert Distinguished Visiting Professor of International Law, New York University Law School (1994-1998). Adjunct Professor of International Law, Columbia Law School (1994-1998). Professor, Hague Academy of International Law (1999). Professor of International Law, New York University Global Law School (1999-2003). Professor of International Law, Waseda University Graduate School (2000-2003). Visiting Fellow Commoner of Trinity College, Cambridge University (2002). Academic Adviser, Hiroshima University (since 2002).

Member, Institut de droit international. Member emeritus, Japanese Society of International Law. Member, Executive Council of the International Law Association.

Honours: Humanitarian Studentship in International Law, Cambridge University (1958-1959). Al-Istiqlal Order, First Degree, Hashemite Kingdom of Jordan (1990). Officier, Légion d'honneur, France (1992). Grand Cross of the Order of Merit, Federal Republic of Germany (1994).

Author of numerous publications on international law and international organizations.

Judge Bruno SIMMA

(Member of the Court since 6 February 2003)

Born in Quierschied (Saar), Germany, on 29 March 1941.

Doctorate of Law, University of Innsbruck, Austria (1966). Practice at the Bar in Innsbruck (1967).

Assistant at the Faculty of Law, University of Innsbruck (1967-1972). Universitätsdozent (*venia legendi*) for International Law and International Relations, Innsbruck (1971). Professor of International Law and European Community Law, Director of the Institute of International

Law, University of Munich (1973-2003). Lecturer for International Law at the Training Centre for Junior Diplomats, German Federal Foreign Ministry (1981-1989). Visiting Professor at the University of Siena, Italy (1984-1985). Visiting Professor (1986 and 1995). Professor of Law (1987-1992). Member of the Affiliate Overseas Faculty (since 1997) of the University of Michigan Law School, Ann Arbor, United States (on leave during tenure at the International Court of Justice). Lecturer (1995). Director of Studies (1976 and 1982) at the Hague Academy of International Law. Dean of the Munich Faculty of Law (1995-1997).

Member of the United Nations Committee on Economic, Social and Cultural Rights (1987-1996). Member of the United Nations International Law Commission (1996-2003). Member of the Advisory Boards on International Law and on United Nations Issues of the German Federal Foreign Ministry (until 2002).

Was actively engaged in the following cases before the International Court of Justice: *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)* as Counsel for Cameroon (1994-2002); *LaGrand (Germany v. United States of America)* as Co-agent and counsel for Germany (1999-2001); and *Certain Property (Liechtenstein v. Germany)* as counsel for Germany (2001-2002).

Arbitrator in the Iron Rhine Arbitration between Belgium and the Netherlands (2003-2005).

Member of the Court of Arbitration for Sport.

Expert at the Council of Europe (Directorate of Legal Affairs) (1972). Expert for the Human Dimension Mechanism of the OSCE and for Conflict Prevention Activities of the Secretary-General of the United Nations. Consultant in cases before the European Commission and the European Court of Human Rights. Consultant on international law to various Governments.

First President of the European Society of International Law (2004). Associate Member of the Institut de droit international. Member of the International Council of Environmental Law. Member of the Council (since 1987). Vice-President (1989-1993) of the German Society of International Law. Member of various other professional associations.

Member of the Advisory Boards of the Heidelberg Max Planck Institute for Comparative Public Law and International Law and the Walther Schücking Institute of International Law at the University of Kiel. Member of the Advisory Council of the British Institute of International and Comparative Law.

Co-founder and co-editor of the *European Journal of International Law*. Member of the advisory boards of various international legal journals and yearbooks.

Certificate of Merit awarded by the American Society of International Law (1996).

Principal publications: *Das Reziprozitätselement in der Entstehung des Völkergewohnheitsrechts*, 1970; *Das Reziprozitätselement im Zustandekommen völkerrechtlicher Verträge. Gedanken zu einem Bauprinzip der*

internationalen Rechtsbeziehungen, 1972; *Universelles Völkerrecht. Theorie und Praxis* (together with Alfred Verdross), 1st ed., 1976, 2nd ed., 1981, 3rd ed., 1984; *Territoriale Souveränität und Gebietshoheit. Zur völkerrechtlichen Lage der Oder-Neiße-Gebiete* (together with Alfred Verdross and Rudolf Geiger), 1980; *Europarecht in Fällen* (together with Waldemar Hummer and Christoph Vedder), 1st ed., 1991, 2nd ed., 1994, 3rd ed., 1999; *Kompetenzen und Grundrechte: Beschränkungen der Tabakwerbung aus der Sicht des Europarechts* (together with Joseph H. Weiler and Markus Zöckler), 1999; *Restitution und Entschädigung im Völkerrecht: Die Verpflichtungen der Republik Österreich nach 1945 im Lichte ihrer außenpolitischen Praxis* (together with Hans-Peter Folz), 2004; *International Protection of the Environment. Treaties and Related Documents* (together with Bernd Rüster and Michael Bock), 30 vols., 1975-1983, continued in loose-leaf format 1990 ff.; *Zwischen Intervention und Zusammenarbeit. Interdisziplinäre Arbeitsergebnisse zu Grundfragen der KSZE* (together with Edda Blenk-Knocke), 1979; *Jus humanitatis. Festschrift zum 90. Geburtstag von Alfred Verdross* (together with Herbert Miehsler, Erhard Mock and Ilmar Tammelo), 1980; *United Nations Codification of State Responsibility* (together with Marina Spinedi), 1987; *Charta der Vereinten Nationen: Kommentar*, 1991; *The Charter of the United Nations: A Commentary*, 1st ed., 1995, 2nd ed., 2002; *Neues europäisches Völkerrecht nach dem Ende des Ost-West-Konfliktes?* (together with Hanspeter Neuhold), 1996; "Reflections on Article 60 of the Vienna Convention on the Law of Treaties and Its Background in General International Law", *Österreichische Zeitschrift für öffentliches Recht*, Vol. 20, 1970; "Völkerrechtswissenschaft und Lehre von den Internationalen Beziehungen. Erste Überlegungen zur Interdependenz zweier Disziplinen", *Österreichische Zeitschrift für öffentliches Recht*, Vol. 23, 1972; "Das Kernkraftwerk an der Grenze: Eine 'Ultra-Hazardous Activity' im Schnittpunkt von internationalem Nachbarrecht und Umweltschutz" (together with A. Randelzhofer), *Festschrift für Friedrich Berber zum 75. Geburtstag*, 1973; "Der Grundvertrag und das Recht der völkerrechtlichen Verträge", *Archiv des öffentlichen Rechts*, Vol. 100, 1975; "Methodik und Bedeutung des Arbeit der Vereinten Nationen für die Fortentwicklung des Völkerrechts", *Die Vereinten Nationen im Wandel*, 1975; "Zur bilateralen Durchsetzung vertraglich verankerter Menschenrechte. Aktivlegitimation und zulässige Mittel nach allgemeinem Völkerrecht", *Autorität und internationale Ordnung. Aufsätze zum Völkerrecht* (Christoph Schreuer, ed.), 1979; "Grenzüberschreitender Informationsfluß und domaine réservée der Staaten", *Berichte der Deutschen Gesellschaft für Völkerrecht*, Vol. 19, 1979; "Der Beitrag von Alfred Verdross zur Entwicklung der Völkerrechtswissenschaft" (in collaboration with Michael Bock, Jennifer Clayton and Joachim Krauß), *Jus humanitatis. Festschrift für Alfred Verdross zum 90. Geburtstag*, 1980; "Völkerrecht in der Krise?", *Österreichische Zeitschrift für Außenpolitik*, Vol. 20, 1980; "Zur völkerrechtlichen Bedeutung von Resolutionen der UN-Generalversammlung", *Fünftes deutsch-polnisches Juristen-Kolloquium*, Vol. 2: *Die Bedeutung der*

Resolutionen der Generalversammlung der Vereinten Nationen (Rudolf Bernhardt, Jost Delbrück and Ingo von Münch, eds.), 1981; "Droit international coutumier et droit interne selon la Loi fondamentale", *Völkerrecht und Landesrecht. Deutsch-argentinisches Verfassungsrechtskolloquium in Buenos Aires* (Michael Bothe and R. E. Vinuesa, eds.), 1982; "Consent: Strains in the Treaty System", *The Structure and Process of International Law: Essays in Legal Philosophy, Doctrine and Theory* (R. St. J. Macdonald and D. M. Johnston, eds.), 1983; "Legal Aspects in Intra-(East-West) German Relations", *Maryland Journal of International Law and Trade*, Vol. 9, 1985; "Self-contained Regimes", *Netherlands Yearbook of International Law*, Vol. 16, 1985; "The Antarctic Treaty as a Treaty Creating an 'Objective Regime'", *Cornell International Law Journal*, Vol. 19, 1985-1986; "Grundfragen der Staatenverantwortlichkeit in der Arbeit der International Law Commission", *Archiv des Völkerrechts*, Vol. 24, 1986; "La inmunidad de los Estados", *Derecho Comparado* (Buenos Aires), 1987; "The Court of Arbitration for Sport", *Völkerrecht. Recht der Internationalen Organisationen. Weltwirtschaftsrecht. Festschrift für Ignaz Seidl-Hohenveldern* (K.-H. Böckstiegel, H.-E. Folz, J. M. Mössner and K. Zemanek, eds.), 1988; "Grenzüberschreitende Auswirkungen von Kernkraftanlagen und Völkerrecht" (together with Günther Handl), *Österreichische Zeitschrift für Öffentliches Recht und Völkerrecht*, Vol. 39, 1988; "Bilateralism and Community Interest in the Law of State Responsibility", *International Law at a Time of Perplexity. Essays in Honour of Shabtai Rosenne* (Y. Dinstein and M. Tabory, eds.), 1989; "International Crimes: Injury and Countermeasures. Comments on Part 2 of the ILC Work on State Responsibility", *International Crimes of States* (J. H. H. Weiler, A. Cassese and M. Spinedi, eds.), 1989; "Wirtschaftliche, soziale und kulturelle Rechte im Völkerrecht. Der Internationale Pakt von 1966 und sein Kontrollverfahren" (together with Sabine Bennigsen), *Festschrift für Ernst Steindorff zum 70. Geburtstag am 13. März 1990*, 1990; "A Hard Look at Soft Law", *Proceedings 82nd Annual Meeting of the American Society of International Law*, 1991; "The Implementation of the International Covenant on Economic, Social and Cultural Rights", *Die Durchsetzung wirtschaftlicher und sozialer Grundrechte* (Franz Matscher, ed.), 1991; "The Sources of Human Rights Law: Custom, Jus Cogens, General Principles" (together with Philip Alston), *The Australian Yearbook of International Law*, Vol. 12, 1992; "Does the UN Charter Provide an Adequate Legal Basis for Individual or Collective Responses to Violations of Obligations erga omnes?", *The Future of International Law Enforcement: New Scenarios - New Law?* (Jost Delbrück, ed.), 1993; "International Human Rights and General International Law: A Comparative Analysis", *Collective Courses of the European Academy of European Law*, Vol. IV, Book 2, 1994; "Die Erzeugung ungeschriebenen Völkerrechts: Allgemeine Verunsicherung - klärende Beiträge Karl Zemaneks", *Völkerrecht zwischen normativem Anspruch und politischer Realität. Festschrift für Karl Zemanek* (K. Ginther, G. Hafner, W. Lang,

N. Neuhold and L. Sucharipa-Behrmann, eds.), 1994; "Countermeasures and Dispute Settlement: A Plea for a Different Balance", *European Journal of International Law*, Vol. 5, 1994; "From Bilateralism to Community Interest in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 250, 1994; "The Contribution of Alfred Verdross to the Theory of International Law", *European Journal of International Law*, Vol. 6, 1995; "Human Rights", *The United Nations at Age Fifty: A Legal Perspective* (Ch. Tomuschat, ed.), 1995; "The 'International Community': Facing the Challenge of Globalization" (together with Andreas Paulus), *European Journal of International Law*, Vol. 9, 1998; "The Impact of Nuremberg and Tokyo: Attempts at a Comparison", *Japan and International Law, Past, Present and Future* (N. Ando, ed.), 1999; "Human Rights Considerations in Development Cooperation Activities of the European Community" (together with Jo Aschenbrenner and Constanze Schulte), *The European Union and Human Rights* (Ph. Alston et al., eds.), 1999; "The Responsibility of Individuals for Human Rights Abuses in Internal Conflicts: A Positivist View" (together with Andreas Paulus), *American Journal of International Law*, Vol. 93, 1999; "NATO, the UN and the Use of Force: Legal Aspects", *European Journal of International Law*, Vol. 10, 1999; "Le rôle relatif des différentes sources du droit international (dont les principes généraux de droit)" (together with Andreas Paulus), *Droit international pénal*, 2000; "Reciprocity", *Encyclopedia of Public International Law* (Rudolf Bernhardt, ed.), Vol. IV, 2000; "International Adjudication and U.S. Policy – Past, Present, Future", *Democracy and the Rule of Law* (N. Dorsen and P. Gilford, eds.), 2001; "Peaceful Settlement of Boundary Disputes under the Auspices of the Organization of African Unity and the United Nations: The Case of the Frontier Dispute between Eritrea and Ethiopia" (together with Daniel Khan), *Liber Amicorum Judge Shigeru Oda*, Vol. 2 (N. Ando, E. McWhinney and R. Wolfrum, eds.), 2002; Reports on the Work of the International Law Commission at its 49th to 54th sessions, *Nordic Journal of International Law*, 1997-2003; "Staatenverantwortlichkeit und Menschenrechte im ILC-Entwurf 2001", *Verhandeln für den Frieden – Negotiating for Peace: Liber Amicorum Tono Eitel* (Jochen Abr. Frowein, Klaus Scharioth, Ingo Winkelman and Rüdiger Wolfrum, eds.), 2003; "From *LaGrand* to *Medelin* – A Rocky Road toward Implementation" (with Carston Hoppe), *Tulane Journal of International and Comparative Law*, Vol. 14 (2005-2006).

Judge Peter TOMKA

(Member of the Court since 6 February 2003)

Born in Banská Bystrica, Slovakia, on 1 June 1956.

LL.M. (*summa cum laude*), Faculty of Law, Charles University, Prague (1979). *Doctor juris* (international law), Charles University (1981). Ph.D. in International Law, Charles University (1985). Faculty of International

Law and International Relations, Kiev, Ukraine (1982). Institut du droit de la paix et du développement, Nice, France (1984-1985). Institute of International Public Law and International Relations, Thessaloniki, Greece (1985). Hague Academy of International Law (1988).

Assistant Legal Adviser (1986-1990); Head of the Public International Law Division (1990-1991), Ministry of Foreign Affairs, Prague. Counsellor and Legal Adviser (1991-1992), Permanent Mission of Czechoslovakia to the United Nations. Ambassador, Deputy Permanent Representative (1993-1994), and Ambassador, Acting Permanent Representative of Slovakia to the United Nations (1994-1997). Legal Adviser and Director of the International Law Department (1997-1998); Director General for International Legal and Consular Affairs and Legal Adviser (1998-1999), Ministry of Foreign Affairs, Bratislava, Slovakia. Ambassador, Permanent Representative of Slovakia to the United Nations (1999-2003).

Chairman of the United Nations Committee on the Applications for Review of the Judgements of the Administrative Tribunal (1991). Vice-Chairman of the Sixth (Legal) Committee of the United Nations General Assembly (1992). Chairman of the Working Group on the United Nations Decade of International Law (1995). Chairman of the Meeting of the States Parties to the International Covenant on Civil and Political Rights (1996). Vice-President of the Sixth Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1996). Chairman of the Sixth (Legal) Committee of the Fifty-second Session of the United Nations General Assembly (1997). Vice-Chairman of the Preparatory Committee for the International Criminal Court (1998). President of the Ninth Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1999). Chairman of the *Ad Hoc* Committee on the International Convention against the Reproductive Cloning of Human Beings (2002). Member of the Ambassadorial Panel of Experts to advise the Division for Ocean Affairs and the Law of the Sea (2002).

Member (1999-2003). Second Vice-Chairman (2000). Chairman of the Drafting Committee (2001), United Nations International Law Commission.

Delegate of Czechoslovakia to the XXVth International Conference of the Red Cross, Geneva (1986).

Representative of Czechoslovakia to the Preparatory Commission for the International Sea Bed Authority and the International Tribunal for the Law of the Sea (1987-1992). Alternate Representative of Czechoslovakia in the United Nations General Assembly, Forty-sixth and Forty-seventh Sessions, and Adviser at the Forty-fifth Session (1990-1992). Representative of Czechoslovakia in the Sixth Committee (1990-1992). Head of the Delegation of Czechoslovakia to the Meeting of the States Parties to the Antarctic Treaty, Madrid (1991). Head of the Delegation of Czechoslovakia to the CSCE Meeting of Experts on the Peaceful Settlement of Disputes in Europe, Valletta, Malta (1991). Representative of Slovakia to the United Nations General Assembly,

Forty-eighth to Fifty-seventh Sessions (1993-2002), and Deputy Head of delegation at the Forty-ninth to Fifty-first and Fifty-fourth to Fifty-seventh Sessions. Representative of Slovakia in the Sixth Committee (1993-2002). Representative of Slovakia to the Preparatory Commission for the International Sea Bed Authority and the International Tribunal for the Law of the Sea (1993-1994). Head of the Delegation of Slovakia to the Assembly of the International Sea Bed Authority (1994-1996). Alternate Head of the Delegation of Slovakia to the Diplomatic Conference on the Establishment of the International Criminal Court (1998).

Agent of Slovakia before the International Court of Justice in the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* (1993-2003).

Expert of Slovakia in the ICSID case No. ARB 97/4, *Československá obchodní banka (CSOB) v. The Slovak Republic* before the International Centre for Settlement of Investment Disputes (Jurisdiction) (1997-1999).

Member of the Permanent Court of Arbitration (since 1994). Arbitrator in the *Iron Rhine (Belgium/Netherlands)* case (2003-2005).

On the List of Arbitrators nominated under Annex VII to the United Nations Convention on the Law of the Sea (since 2004) and at the International Centre for Settlement of Investment Disputes (since 2005).

Chairman of the Committee of Legal Advisers on Public International Law, Council of Europe (2001-2002); Vice-Chairman (1999-2000).

Legal Adviser of the Czechoslovak Delegation at the negotiations on the withdrawal of Soviet military forces from Czechoslovakia (1989-1990). Legal Adviser of the Czechoslovak Delegation at the negotiations concerning the dissolution of the Warsaw Pact (1991).

Lecturer (1980-1984), Senior Lecturer (1984-1991), Public International Law, Charles University, Prague. General Course on Public International Law, Institute of International Relations, Comenius University, Bratislava (1998-1999).

Member (1981-1992) and Secretary (1986-1991) of the Czechoslovak Society of International Law. Member (1988-2001) and Secretary (1988-1991) of the Czechoslovak Branch of the International Law Association (ILA). Member (since 1982) and Honorary President (since 2003) of the Slovak Society of International Law. Member of the American Society of International Law (since 2000). Member of the European Society of International Law (since 2004). Member, Board of Editors of the journal *Právnik (The Lawyer)*, published by the Czechoslovak Academy of Science (1990-1991).

Author of a doctoral thesis on the *Codification of International Law* (Charles University, Prague, 1984) and of a series of articles in Slovak and Czech on forms of codification of international law, the International Court of Justice, the peaceful resolution of international disputes in Europe, the establishment of the International Criminal Court, the Draft Code of Crimes against the Peace and Security of Mankind; co-author

of a collection of *Documents for the Study of the Law of the European Communities* (1991). Publications in English and French: "The First Site Visit of the International Court of Justice in Fulfilment of Its Judicial Function", *American Journal of International Law*, Vol. 92, 1998 (co-author with S. Wordsworth); "Major Complexities Encountered in Contemporary International Law-Making", *Making Better International Law: The International Law Commission at 50*, 1998; "The Special Agreement", *Liber Amicorum Judge Shigeru Oda* (N. Ando, E. McWhinney and R. Wolfrum, eds.), Vol. I, 2002; "La Cour internationale de Justice en tant que l'Organe judiciaire principal des Nations Unies. Commentaire sur l'article 92 de la Charte", *La Charte des Nations Unies. Commentaire article par article* (J.-P. Cot and A. Pellet, eds.), 3rd ed., Vol. II, 2005.

Judge Ronny ABRAHAM

(Member of the Court since 15 February 2005)

Born in Alexandria, Egypt, on 5 September 1951.

Diplôme d'études supérieures de droit public (Diploma in Advanced Studies in Public Law), University of Paris I (1974). Diploma of the Institut d'études politiques of Paris (1973). Graduate of the Ecole nationale d'administration (1976-1978).

Professor, Institut d'études politiques of Paris (until 1998). Associate Professor, University of Paris X-Nanterre (1997-2003). Associate Professor, University of Paris II, Panthéon-Assas (public international law, human rights) (since 2004).

Administrative tribunal judge (1978-1985 and 1987-1988). Assistant Director of the Office of Legal Affairs of the Ministry of Foreign Affairs (1986-1987). *Maître des requêtes* (1988-2000), then *Conseiller d'Etat* (since 2000) at the Council of State. Government Commissioner within the judicial system (1989-1998).

Director of Legal Affairs of the Ministry of Foreign Affairs (1998-2005). As head of the Office of Legal Affairs of the Ministry of Foreign Affairs, acted as legal adviser to the Government in the areas of general international public law, European Union law, international human rights law, law of the sea and laws on the Antarctic.

From 1998 to 2004, representative for France in many cases before international and European courts, as follows: International Court of Justice: *Legality of Use of Force (Serbia and Montenegro v. France)* (hearings on the request for the indication of provisional measures, 10-12 May 1999, and on preliminary objections, 19-23 April 2004); *Certain Criminal Proceedings in France (Republic of the Congo v. France)* (hearings on the request for the indication of a provisional measure, 28 and 29 April 2003); *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Request for an Advisory Opinion)

(written statement of the French Republic, 30 January 2004); European Court of Human Rights; Court of Justice of the European Communities; International arbitral tribunals; Tribunal established by France and the United Nations Educational, Scientific and Cultural Organization (Unesco) on the question of the tax situation of pensions paid to retired Unesco staff members residing in France, award made on 14 January 2003; Tribunal established by the Kingdom of the Netherlands and the French Republic in the case concerning the interpretation and application of the Additional Protocol to the Convention concerning the Protection of the Rhine against Pollution by Chlorides, award made on 12 March 2004.

Member and Chairman of the Committee of Experts for the Improvement of Procedures for the Protection of Human Rights (member 1986-1998; Chairman 1987-1989). Chairman of the Joint Consultative Committee of the Organization for Economic Co-operation and Development (1994-1998).

Member of the French delegation to the General Assembly of the United Nations (1998-2004). Chairman of the French delegation to the Sixth Committee of the General Assembly (1998-2004).

Chairman of the French delegation to the Assembly of States Parties to the Rome Statute of the International Criminal Court (2002, 2003, 2004). Chairman of the French delegation in the Working Group on Jurisdictional Immunities of States and Their Property. Head of the French delegation to the Central Commission for the Navigation of the Rhine (1998-2005), Chairman of the Commission (2002-2003).

Member of the Board of the Société française pour le droit international. Member of the European Group of Public Law.

Publications: *Droit international, droit communautaire et droit français*, 1989; "Les magistrats des tribunaux administratifs et des cours administratives d'appel", *Revue française de droit administratif (RFDA)*, 1988, March-April, No. 2; "Compétence des juridictions internes pour interpréter un traité international", *Actualité juridique droit administratif*, September 1990; *Revue générale de droit international public*, 1990; "L'applicabilité directe de la Convention européenne des droits de l'homme devant la juridiction administrative", *Revue universelle des droits de l'homme*, 1991, September, Vols. 7-9; "Les incidences de la Convention européenne des droits de l'homme sur le droit constitutionnel et administratif des États parties", *Revue universelle des droits de l'homme*, 1992, Vols. 10-11; "Commentary on Articles 25 and 46 of the European Convention on Human Rights", in *La Convention européenne des droits de l'homme*, L. E. Pettiti, E. Decaux and P. H. Imbert, eds.; "La réforme du mécanisme de contrôle de la Convention européenne des droits de l'homme: le Protocole no 11 à la Convention", *Annuaire français de droit international*, 1994; "Les principes généraux de la protection juridictionnelle administrative en Europe: l'influence des jurisprudences européennes", *Revue européenne de droit public*, Vol. 9, No. 3, Autumn 1997; "La notion d'effet direct des traités internationaux devant le Conseil d'État", *Recueil*

Dalloz, 1998, jurisprudence; "Les normes du droit communautaire et du droit international devant le juge administratif français", presented at the Symposium of the Société française pour le droit international, held at Bordeaux, ed. Pedone, Paris, 2000; "Les procédures incidentes devant la Cour internationale de Justice", presented at a workshop of the School of Law of the University of Rennes I, ed. Pedone, Paris, 2001; "La France devant les juridictions européennes", *Pouvoirs*, 2001, No. 96; "Le rôle du juriconsulte au Ministère des affaires étrangères", presented at the symposium of the Société française pour le droit international held at Geneva, ed. Pedone, Paris, 2004; "Le principe du contradictoire devant les juridictions internationales", presented at the symposium organized by the University of Paris I, ed. Pedone, 2004; "Droit des immunités et exigences du procès équitable", presented at a symposium organized by the University of Paris XII, ed. Pedone, Paris, 2004.

Numerous arguments submitted to the Council of State, published in, *inter alia*, *Actualité juridique droit administratif*, *Revue française de droit administratif*, *Revue générale de droit international public* and *Revue critique de droit international privé*.

II. MEMBER OF THE COURT WHOSE TERM OF OFFICE ENDED DURING THE PERIOD UNDER REVIEW

Judge Gilbert GUILLAUME

(Member of the Court from 14 September 1987 to 11 February 2005; President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Benin/Niger)* (2002-2005); President of the Chamber formed to deal with the case concerning the *Application for Revision of the Judgment of 11 September 1992 in the case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (*El Salvador v. Honduras*) (2002-2003); President of the Court from 2000 to 2003)

Born in Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981-1996).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979);

French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Member of the Court of Arbitration of the Organization for Security and Co-operation in Europe (OSCE). Designated arbitrator by the International Telecommunications Satellite Organization (INTELSAT), the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID).

President of the French branch of the International Law Association (ILA). Member of the Institute of International Law. Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman

of the Board of Directors of the *Revue française de droit aérien et spatial*. President of the Institute of Air and Space Law of Leiden University.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, Vol. 215, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994) and of a book entitled *La Cour internationale de Justice à l'aube du XXI^{ème} – Le regard d'un juge* (2003).

III. JUDGES *Ad Hoc*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad hoc* are to take precedence after the Members of the Court and in order of seniority of age.

Judge *ad hoc* Krzysztof SKUBISZEWSKI

(Judge *ad hoc* in the case concerning *Gabčíkovo-Nagymaros Project* (Hungary/Slovakia))

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznań (*magister juris*) (1945-1949); Doctor *juris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard Law School (Master of Law) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznań (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz, Geneva and Warsaw (Cardinal Wyszyński University).

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznań (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (1973-1996); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of International Studies at Geneva; College of Europe at Bruges, Belgium, and also the Clubs of International Law of Harvard, Duke and Oxford Universities; Max-Planck Institute in Heidelberg; Universities of Vienna

and Graz; Faculty of Law, University of Paris II; Royal Institute of International Affairs, Chatham House; All Souls College, Oxford; Institut d'Etudes Politiques de Paris; Free University, Berlin; also Hersch Lauterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford (1990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991); Hague Academy Jubilee Lecture (1998); and numerous other lectures in European, American, Australian and Asian Societies of Political and Legal Sciences or International Relations.

Member of "Solidarity" (since 1980); Member of the Primate of Poland Social Council (1981-1984); Member of the Co-ordinating Committee of the Poland-Federal Republic of Germany Forum, representing the secretariat of the Polish Episcopate (1984-1989); Member of the Consultative Council to the Chairman of the Council of State of the Polish People's Republic (1986-1989); Minister for Foreign Affairs (1989-1993).

Member (since 4 December 1993) and President (since 16 February 1994) of the Iran-United States Claims Tribunal.

Member, Bureau of the Court of Conciliation and Arbitration within the Organisation for Security and Co-operation in Europe (OSCE), Geneva (1995-2000).

Judge *ad hoc* in the International Court of Justice in the case concerning *East Timor (Portugal v. Australia)*.

Chairman of the Arbitration Tribunal Netherlands/France set up under the Rhine Convention of 1976 (2000-2004).

Co-founder and first Chairman of the Council on Foreign Policy (Warsaw, since 1996).

Member of the Academies of Sciences of Warsaw and of Cracow; Correspondent, Institut de France; Member, Society of Arts and Sciences, Poznań; Western Institute, Poznań; International Law Association (Polish branch); Institut de droit international (First Vice-President, 1995-1997); American Society of International Law (Honorary Member, 1991); Société française pour le droit international; Deutsche Gesellschaft für Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher, Gray's Inn; Curator, United Nations Student Association, Poznań (1960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polonia Restituta (1986); Grand Cross of the same Order (1993); Cavaliere di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier de la Légion d'honneur (1991); Grosskreuz des Verdienstordens der Bundesrepublik Deutschland (1991); Order of Diplomatic Merit of the Republic of Korea (1991); Cross of Merit of the Republic of Hungary (1994); Giedymin Order of Lithuania (2001); Austrian Honorary Cross of Science and Art (2002).

Alexander von Humboldt Foundation research prize (1984); Wartburg Prize, Germany (1992); Robert Schuman Gold Medal (1999); German-Polish prize (1999, awarded by virtue of Article 35 of the Treaty of 1991 between the two States).

Author of five books and over 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Marc LALONDE

(Judge *ad hoc* in the case concerning the *Legality of Use of Force* (*Serbia and Montenegro v. Canada*))

Born in Ile Perrot, Quebec, Canada, on 26 July 1929.

B.A., St. Laurent College, Montreal (1949); LL.L., University of Montreal (1954); M.A. (Law), University of Montreal (1955); M.A. (Oxon.) (Economics and Political Science), Oxford University (1957); Diploma of Superior Studies in Law, University of Ottawa (1960); LL.D. *honoris causa*, Limburg University, Netherlands (1993).

Called to the Bar of Quebec (1955).

Professor of Commercial Law and Economics, University of Montreal (1957-1959); Special Assistant to the Canadian Minister of Justice (1959-1960); Partner, Gélinas, Bourque, Lalonde & Benoit, Montreal (1960-1967); Lecturer in Administrative Law for Doctoral Students, University of Ottawa and University of Montreal (1961-1962); Policy Adviser to Lester B. Pearson, Prime Minister of Canada (1967-1968); Principal Secretary to Pierre E. Trudeau, Prime Minister of Canada (1968-1972); Member of Parliament (1972-1984); Minister of Health and Welfare (1972-1977); Minister Responsible for the Status of Women (1974-1979); Minister of State Responsible for Federal-Provincial Relations (1977-1978); Minister of Justice and Attorney General for Canada (1978-1979); Minister of Energy, Mines and Resources (1980-1982); Minister of Finance (1982-1984); Partner (1984-2002), Senior Counsel (since 2002), Stikeman Elliott, Montreal, Quebec.

Member of the Board of Directors of Citibank Canada, O & Y Properties Corporation, Sherritt International Corp., Oxbow Equities Corp., Repworld Holdings Ltd. and the Pierre Elliott-Trudeau Foundation.

Member of the International Advisory Council to the Presidium of Ukraine (1990-1997); the Advisory Committee on Constitutional Matters in Czechoslovakia (1989-1991); the International Advisory Council of Air France (1991-1994).

Chairman of the Council of Governors, Canada-Chile Board of Trade (since 1995). Chairman of Hôtel-Dieu Hospital, Montreal, Quebec (1984-1997).

Judge *ad hoc* in the International Court of Justice in the case concerning *Fisheries Jurisdiction (Spain v. Canada)* (1995-1998).

Member of the Quebec Bar; the Law Society of Upper Canada (Ontario Bar); the American Bar Association (associate member);

the International Bar Association; the Canadian Bar Association; the Chambre de Commerce de Montréal; the Chambre de Commerce France-Canada; the International Council on Commercial Arbitration; the Corporate Counsel Committee, American Arbitration Association; Chairman of the North American Users Committee of the London Court of International Arbitration; Corresponding Member of the Institute of International Business Law and Practice of the International Chamber of Commerce and of the Canadian Arbitration Committee of the International Chamber of Commerce; Member of the Council of the Royal College of Physicians and Surgeons of Canada (lay member) (1995-1997).

Has written a number of articles and delivered lectures in Canada and abroad on arbitration. Has also been a frequent speaker to national and international conferences in the Canada-United States Free Trade Agreement and the North American Free Trade Agreement.

Queen's Counsel (1971); Member of the Privy Council of Canada (1972); Officer of the Order of Canada (1989).

Judge *ad hoc* Mohammed BEDJAOUI

(Judge *ad hoc* in the case concerning the *Frontier Dispute (Benin/Niger)* and in the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*)

Born in Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law, Law Faculty of the University of Grenoble, France (1955). Doctor *honoris causa* of the Universities of Hyderabad, Aix-en-Provence, Brussels, Kuwait, Madrid-Complutense and Madrid-Carlos III. Diploma of the Institute of Political Studies, University of Grenoble (1952).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961). Expert adviser to the Algerian delegation in the independence negotiations at Evian and Lugrin (1961).

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Member of the International Court of Justice from 19 March 1982 to 30 September 2001. President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987. President of the Court from 1994 to 1997.

Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982). Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1981-1982). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea and Guinea-Bissau (1983-1985). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in several international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation. United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law (since 1977); First Vice-President of the Institute (Strasbourg 1997-Berlin 1999). Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta. Member of the Independent Commission on International Humanitarian Issues (co-chaired by Prince Hassan bin Talal of Jordan and Prince Sadruddin Agha Khan) (1982-1987). Member of several award panels for international prizes, including that of the Albert Schweitzer Prize (United States of America). Member of the Jury for the Félix Houphouët-Boigny Peace Prize (Unesco). Member of the Unesco *Ad Hoc* Forum for Reflection (1992). Member of the Unesco International Consultative Committee on Bioethics (1994-1999). Member of the International Committee of Advisers of the Chinese International Law Institute, Beijing. Member of the International Council for Global Health Progress (since 1994). Member of the Independent World Commission on the Oceans (President: Mr. Mario Soares) (1995-1998).

Recipient of various prizes and honours.

Holder of decorations of several States.

Author of eight books and over 200 articles.

Judge *ad hoc* Gilbert GUILLAUME

(Judge *ad hoc* in the case concerning *Certain Criminal Proceedings in France* (Republic of the Congo v. France))

For his biography, see Section II above, p. 63.

Judge *ad hoc* Carl-August FLEISCHHAUER

(Judge *ad hoc* in the case concerning *Certain Property* (Liechtenstein v. Germany))

Born in Düsseldorf, Germany, on 9 December 1930.

Studied at the Universities of Heidelberg, Grenoble and Paris. First State Examination (Law), Heidelberg (1954). Fulbright Scholar, University of Chicago Law School (1954-1955). Junior Barrister, Düsseldorf/Heidelberg (1955-1959). Dr Jur., Heidelberg. Second State Examination (Law), Stuttgart (1960). Hague Academy of International Law (1960).

Research Fellow at the Max-Planck Institute for Comparative Public Law and International Law, Heidelberg (1960-1962).

Entered the foreign service of the Federal Republic of Germany in 1962. Foreign assignments to Tehran (1962-1963) and Montevideo (1969-1971). Official (1964-1969). Deputy Head (1971) and Head (1972). International Law Section, Legal Department, Federal Foreign Office. Principal Legal Adviser to the Federal Foreign Office and Director-General of the Legal Department (1976-1983).

Member of the Committee of Experts on Human Rights, Council of Europe, Strasbourg (1964-1967). Member of the delegation of the Federal Republic of Germany to the United Nations Conference on the Law of Treaties, Vienna (1968-1969). Observed Sixth Committee during parts of the twenty-third and twenty-fourth sessions of the General Assembly for the then Observer Mission of the Federal Republic of Germany (1968 and 1969). Member of the delegation of the Federal Republic of Germany to the United Nations General Assembly (twenty-eighth to thirty-third sessions as Adviser and Special Adviser, thirty-fourth to thirty-seventh sessions as Alternate Representative) (1973-1982). Alternate Representative and Representative of the Federal Republic of Germany in the Sixth Committee. Representative of the Federal Republic of Germany (1978-1979), on the *Ad Hoc* Committee of the Sixth Committee on the elaboration of the International Convention against the Taking of Hostages. Member of the delegation of the Federal Republic of Germany to the CSCE (Geneva Phase, Helsinki Final Phase) (1974-1975). Member (Vice-Chairman) of the delegation of the Federal Republic of Germany to the Diplomatic Conference on Humanitarian Law applicable in Armed Conflicts, Geneva (1974-1977). Head of the delegation of the Federal Republic of Germany to the United Nations Conference on State Succession in relation to

Treaties, Vienna (1977-1978). Member (from 1977 Vice-Chairman) of the delegation of the Federal Republic of Germany to the Third United Nations Conference on the Law of the Sea (1974-1982). Has participated in numerous bilateral meetings and negotiations.

Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations (1983-1994).

Member of the International Court of Justice from 6 February 1994 to 5 February 2003.

Was actively engaged, on the side of the Federal Republic of Germany, in the following cases before the Court: *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* (1967-1969); and *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* (1972-1974). Was actively engaged, on the side of the United Nations, in the advisory cases on the: *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* (1984-1987); *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* (1988); and *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* (1989).

Honorary member of the Indian Society of International Law (since 1985). Member of the German Society of International Law and, since 1977, of the Council of the Society. Member of the American Society of International Law. Member of the Société française pour le droit international. Former Member of the Curatorium of the Max-Planck Institute for International and Foreign Public Law, Heidelberg (1975-2003). Member of the Heidelberg Society for International and Foreign Public Law.

Awarded the German Cross of Merit, First Class, and several foreign decorations (all before 1983).

Author of numerous publications on international law.

Judge *ad hoc* Diego GONZÁLEZ CAMPOS

(Judge *ad hoc* in the case concerning *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*)

Born at Alcalá de Guadaira (Seville, Spain) on 5 April 1932.

Licenciado in law (1955). Doctor of Law (1960), University of Seville. Diploma from the Hague Academy of International Law (1960), public international law session. Doctor *honoris causa* of the University of Salamanca (2000) and of the University of Oviedo (2001).

Participation in the Hague Academy's Research Centre (1961, on waterways of international interest, and, 1962, on State succession). Research on international law at the United Nations Library in Geneva (1961, 1970), at the Peace Palace Library in The Hague (1964, 1967, 1980, 1986) and at the Max-Planck Institute in Hamburg (1976).

Teaching Assistant at the Universities of Seville (1957-1961) and Madrid (1961-1963). Deputy Professor at the University of Madrid (1963-1972). Professor of international public and private law at the University of Oviedo (1972-1979). Professor of private international law (since 1979). Dean of the Faculty of Law (1980-1982) and Rector (1982-1984) of the Universidad Autonoma de Madrid. Member of the Universities Council, following election by the Parliament (1985-July 1992). Member of the Unesco Advisory Committee for Higher Education (1988-1991). Henri Rolin Professor of the Vrije Universiteit Brussel (1984). Visiting Professor at the University of Naples (1989) and the University of Paris II (1990). Lectured at the Hague Academy of International Law (1977) and delivered general course on private international law (1987).

Member of the Spanish Constitutional Court, following election by the Parliament (1992-2001).

Delegate of Spain to the United Nations Conference on the Law of Treaties (1968-1969), to the Preparatory Commission (1971-1973) and to the United Nations Conference on the Law of the Sea (1974). Member of the Spanish delegation in the negotiations with the French Republic concerning the continental shelf delimitation (Paris Convention of 29 January 1974). Delegate of Spain to the Hague Conference on Private International Law (1972, 1976, 1980, 1985 and 1988). President of the Hague Conference Commission for Policy and General Affairs (1988).

Representative of Spain before the International Court of Justice in the advisory opinion on the *Western Sahara* (1975).

Counsel to the Government of the Republic of Honduras in the mediation procedure with the Republic of El Salvador (1976-1980) and in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* before the International Court of Justice (1986-1991). Counsel to the Government of the State of Qatar in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (from 1989 until July 1992) and for the Government of the Libyan Arab Jamahiriya in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya v. Chad)* (from 1990 to July 1992) before the International Court of Justice. Counsel to the Government of the Republic of Argentina in the *Limite entre el Hito 62 y el Monte Fitz Roy* case (from 1990 to July 1992).

Associate (1989) and Member (1995) of the Institut de droit international. Director of the *Revista Española de Derecho internacional* (1991-1997). Vice-President (1988-1991) and President (1991-1993) of the Spanish Association for professors of international law and international relations.

Member of the General Commission for Codification, Ministry of Justice (since 1981). Member of the Executive Board of the Prado Museum (1983-1993).

Author of numerous works on public international law, private international law, EC law and constitutional law.

Judge *ad hoc* L. Yves FORTIER

(Judge *ad hoc* in the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*)

Born in Quebec, Canada, on 11 September 1935.

Bachelor of Arts *summa cum laude* of the University of Montreal (1955). Bachelor of Civil Law, McGill University (1958); and Bachelor of Letters as a Rhodes Scholar at Oxford University (1960). Doctor of Laws *honoris causa*, the Law Society of Upper Canada (1989), Acadia University (1992), the University of British Columbia (1993) and the University of Montreal (1999). Doctor of Commerce *honoris causa*, Ryerson University (2004).

Admitted to the Bar of the Province of Quebec (1961). Joined at that time the predecessor firm of Ogilvy Renault of which he is Chairman since 1992. Queen's Counsel (1976). Officer of the Order of Canada (1984); elevated to the level of Companion in the Order (1991). Awarded the Médaille d'Or of the Quebec Bar (1992). President's Award of the Canadian Bar Association (1993).

Pleaded important cases before all court jurisdictions in Canada and before domestic as well as international arbitral panels.

Served as an arbitrator on many international arbitration panels constituted by various arbitration centres, including the International Chamber of Commerce (Paris), the London Court of International Arbitration, the American Arbitration Association, the Chamber of Commerce of Zurich and the International Centre for the Settlement of Investment Disputes (ICSID).

Counsel for Canada before the International Court of Justice in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada United States of America)* (1984).

Since being called to the Bar, has served as Counsel to many Royal Commissions and Commissions of Inquiry in Canada. Canada's Chief Negotiator in the Canada-France fishing dispute (1987-1989). Counsel for Canada before the *ad hoc* International Panel of Arbitrators constituted to determine the maritime boundary between Canada and France in the North Atlantic (1991). Canada's Chief Negotiator for the Canada-United States Pacific Salmon Treaty negotiations (1993-1998). Special Negotiator of the Government of Quebec to the Cree Nation (1993). Appointed by the Security Council of the United Nations as Chairman of Panel C of the United Nations Compensation Commission in Geneva (Iraq-Kuwait) (1993) and of Panel F-3 E F (1999). Counsel for Canada in the mediation of the Canada-United States Pacific Salmon dispute (1995). Secretary-General's Special Envoy to Malaysia (1997). Member of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (1998). Member of the Board of the International Accounting Standards Committee (since May 2000). Personal representative and mediator of the Secretary-General in the border dispute between Gabon and Equatorial Guinea (2003).

Canada's Ambassador and Permanent Representative to the United Nations in New York (1988-1992). Canada's Chief Delegate to the 43rd, 44th, 45th and 46th Sessions of the United Nations General Assembly (1988-1991). Vice-President of the 45th General Assembly (1990). Canada's Representative to the Security Council of the United Nations (1989-1990). President of the Council (1989).

Member of the Board of Directors of Alcan Inc., the Royal Bank of Canada (Chairman), Hudson's Bay Company (Governor), Nortel Networks Corporation and Nova Chemicals Corporation. Former Governor of McGill University and former administrator of the Institut neurologique de Montréal and of the Institut de recherches cliniques de Montréal. Member of the Board of Directors of several non-profit organizations including the Council for Canadian Unity, the C. D. Howe Institute, the Canadian Foundation for AIDS research (CANFAR) and the Canadian Institute for Advanced Legal Studies. One of the Founding Directors of the Canadian Bar Association Law for the Future Fund and Honorary Patron of the International Centre for Human Rights and Democratic Development. Member of the Board of Directors of the International Peace Academy and the United Nations International School. Member of the Executive Board of the International Association of Permanent Representatives to the United Nations (1989).

Member of numerous professional organizations, including the Canadian Bar Association, which he headed as National President in 1982-1983, the American Bar Association (honorary), the International Commission of Jurists (Canadian Section), the International Bar Association, the Union Internationale des Avocats, the ICC Institute of International Business Law and Practice, the International Law Association (Canadian Branch), the American College of Trial Lawyers (member of the Board of Regents, 1992-1996) and the American Society of International Law.

During past years, has concentrated activities in the field of international arbitration. President of the London Court of International Arbitration (1998-2001). Member of numerous institutions for international arbitration. Member of the CPR International Panel of Distinguished Neutrals, the Quebec National and International Commercial Arbitration Centre (Chairman, Committee of Experts), the British Columbia International Commercial Arbitration Centre (member, Panel of Arbitrators), the International Council for Commercial Arbitration (ICCA), the Court of Arbitration for Sport (CAS), the Legal Service and Research Centre (LSRC), and the International Arbitration Club (London). Has been appointed in 2001 by the President of the Board of Directors of the ICSID as conciliator and arbitrator.

Member of the Permanent Court of Arbitration (1984-1989). Legal Adviser to the Commission on Civil Governance in Geneva (1992-1995). Member of the Trilateral Commission (member of the North American Executive Committee (since 1993)).

Judge *ad hoc* Christopher J. R. DUGARD

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)* and in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*)

Born in Fort Beaufort, South Africa, on 23 August 1936.

B.A. (1956) and LL.B. (1958), University of Stellenbosch; LL.B. (1965), Diploma in International Law (1965) and LL.D. (1980), Cantab.; LL.D. (*honoris causa*) of the Universities of Natal (1990), Cape Town (1996), Port Elizabeth (2003), Witwatersrand and Pretoria (2004).

Lecturer in Law, University of Natal, Durban (1961-1963). Senior Lecturer in Law (1965-1969); Professor of Law (1969-1998); Chairman of the Governing Committee of the School of Law (1972-1974, 1978); Dean of the Faculty of Law (1975-1977); Director of the Centre for Applied Legal Studies (1978-1990) and Professor Emeritus (since 1998) of the University of the Witwatersrand. Professor, honorary, University of Pretoria (since 2000). Professor, honorary, University of the Western Cape (since 2001).

Tutor in Roman Dutch Law, University of Cambridge (1964-1965); Visiting Professor of Public and International Affairs, Woodrow Wilson School of Public and International Affairs, University of Princeton (taught course in Comparative Civil Rights) (1969); Visiting Professor of Law, Duke University (taught courses in Jurisprudence, International and Criminal Law) (1974-1975); Visiting Professor of Law, University of California, Berkeley (Boalt Hall) (taught course in International Protection of Human Rights) (1981); Visiting Fellow, Research Centre for International Law, University of Cambridge (1985); Visiting Professor of Law, University of Pennsylvania (taught courses in International Law and International Human Rights Law) (1989); Visiting Professor of Law, University of New South Wales, Australia (taught course in International Law) (1991); Arthur Goodhart visiting Professor of Legal Science, University of Cambridge (taught LL.M. course in International Criminal Law) (1995-1996); Fellow, Sidney Sussex College, Cambridge (1995-1997); Director, Lauterpacht Research Centre for International Law, University of Cambridge (1995-1997); and Professor of Public International Law, University of Leiden (since 1998).

Admitted as an advocate of the Supreme Court of South Africa (1959); practised at the Durban Bar (1961-1963); part-time consultant and advocate, principally in the fields of international law, human rights and constitutional law (since 1963); appointed Senior Counsel (since 1998).

President of the South African Institute of Race Relations (1978-1980); Member of National Administrative Committee of the South African Institute of International Affairs (1987-1997); Founder and Member of the National Council of Lawyers for Human Rights (1980-1991);

Commissioner of the Human Rights Commission (1988-1989); Board Member of the Independent Board of Inquiry (1990-1994); Chancellor to Bishop Tutu, Diocese of Johannesburg (Anglican) (1985-1987); Member of the Council of the University of Fort Hare (1990-1998); Member of the Technical Committee for Investigating the Repeal or Amendment of Legislation Impeding Free Political Activity and Discriminatory Legislation (part of negotiations for Interim Constitution) (1993); Member of the Technical Committee to advise the Constitutional Assembly on the Drafting of a Bill of Rights for the 1996 Constitution (1995).

Member of the Study Committee on International Protection of Human Rights of the American Society of International Law (1973-1975); Member of the Committee on International Terrorism, International Law Association (1974-1984); Member of the Committee on Extradition and International Terrorism (1985-1988); Co-Rapporteur to the Committee on Extradition and Human Rights (1992-1998); President of the South African Branch of the International Law Association (1993-1995, 1998); Member of the Governing Body of the African Society of International and Comparative Law (since 1995). Member of Institut de droit international (since 1999). Member of the International Law Commission (since 1996); Rapporteur and Member of the Bureau (1997-1998); Special Rapporteur on Diplomatic Protection (since 1999). Member of Panel of Experts for Study on Customary Rules of International Humanitarian Law of the International Committee of the Red Cross (1997). Chairman of the Inquiry Commission established by the Commission on Human Rights to investigate violations of Human Rights and Humanitarian Law in the Occupied Palestinian Territories (2000-2001); Special Rapporteur to the Commission on Human Rights on the situation of Human Rights in the Occupied Palestinian Territories (since 2001).

Author of numerous books and articles on international law.

Judge *ad hoc* Ahmed MAHIOU

(Judge *ad hoc* in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* and in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*)

Born in Bouira, Algeria, in 1936.

University studies in law and political science, Toulouse (1958-1964). Doctor of Law, Nancy (1967). *Agrégation* in public law and political science, Paris (1968). Doctor *honoris causa*, University of Toulouse.

Teaching assistant, lecturer and professor at the University of Algiers and the École nationale d'administration (1964-1990). *Doyen* of the

Faculty of Law and Economic Science of Algiers (1970-1973). *Professeur associé* at the University of Aix-en-Provence (1981-1983) and the University of Dijon (1990-1991).

Director of the Institut de recherches et d'études sur le Monde arabe et musulman (IREMAM) (1992-1997); Director of Research emeritus (since 1997).

Teaching assignments at numerous universities and institutes in Europe, Africa and the Middle East: Universities of Rabat, Casablanca, Tunis, Antananarivo, Paris I, Nanterre, Toulouse, Leipzig, Montpellier, Beirut, IHEI Paris and IHEI Geneva. Courses at the Hague Academy of International Law (The Hague, 1993) (Abidjan, 1996) and seminar (2003); courses at the Euromediterranean Academy of International Law, Castellon (Spain, 1999), the International Academy of Constitutional Law (Tunis, 1988 and 2001), and the Institute of International Law and International Relations (Thessaloniki, 2004).

Joint Director of the DEA (postgraduate course) in international law at the University of Aix-Marseille III. Head of a number of research programmes relating to international law and international relations, administrative law, economic law, and constitutional law. Member of the board of advisers of a number of academic institutions and of several academic publications.

Participated in international conferences organized by the United Nations (environment, law of the sea) and in Unesco general conferences. Member of the Board of Trustees and of the Advisory Committee of the United Nations Voluntary Fund for Indigenous Populations. Member of the United Nations International Law Commission (1982-1996) and Chairman of session (1996).

International arbitrator (ICC and *ad hoc* arbitration), Vice-Chairman of the Unesco Appeals Board; Vice-Chairman of the Arbitration Committee of the Franco-Arab Chamber of Commerce. Vice-Chairman of the National Commission for Justice Reform (Algeria).

Member of the Institut de droit international. Founder-member or member of a number of international learned societies.

Consultant for the Comité permanent consultatif maghrébin (1970), for the Algerian Ministries of Foreign Affairs, of Agriculture, of Industry, of Justice and of Higher Education, and for the Algerian Conseil économique et social. Produced expert studies for the Comité permanent consultatif maghrébin, UNITAR (1975), Unesco (1980), UNIDIR (1990), UNDP (1997), IBRD (2002) and the European Union.

Author of the following publications: *L'avènement du parti unique en Afrique noire: l'expérience des Etats d'expression française*, 1969; *Problèmes actuels de l'Unité africaine*, 1973; *Cours d'institutions administratives* and *Cours de contentieux administratif*, 1984; *La formation des normes en droit international du développement*, 1984; "Droits de l'homme et développement dans les constitutions africaines", in *Cours de l'Académie internationale de droit constitutionnel*, 1989; "Le cadre juridique de la coopération Sud-Sud. Quelques expériences ou tentatives

d'intégration", in *Recueil des cours*, Hague Academy of International Law, Vol. 241, 1993; *L'état de droit et le monde arabe*, 1996; "Multilatéralisme, droits de l'homme et globalité méditerranéenne", in *Recueils de textes avec une introduction*, Unesco, Vol. III, Tomes 1 and 2 (with N. Bachi), 1998; *La codification du droit international*, 1999; "Droit international et développement", in *Cours euro-méditerranéens, Bancaja de droit international*, 2000; *Où va l'Algérie?*, 2001; and "Droit international et droit constitutionnel: de la non-intervention à la bonne gouvernance", in *Cours de l'Académie internationale de droit constitutionnel*, 2002.

Author of numerous other articles.

Algerian Medal of Scientific Merit.

Judge *ad hoc* Budislav VUKAS

(Judge *ad hoc* in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia v. Serbia and Montenegro*))

Born in Rijeka Sušak, Croatia, on 1 January 1938.

LL.B. (1961), LL.M. (1965), Doctor of Law (International Law) (1974), Faculty of Law, University of Zagreb; attended courses at the Hague Academy of International Law (1961 and 1968-1970); participated in the Centre of the Academy for Studies and Research (International Law and International Relations) (1967).

Professor of Public International Law, Faculty of Law, University of Zagreb (Assistant 1963-1970, Lecturer 1970-1974, Assistant Professor 1974-1977, Professor since 1977); lectured at the Universities of Belgrade, Bologna, Boston, Brest, Ljubljano, Maribor, Milan, Osijek, Paris, Parma, Rijeka, Rome, Split, Thessaloniki, Tilburg and Valletta; directed a course on the law of the sea at the Dubrovnik Inter-University Centre (1984-2001); delivered a course on "States, Peoples and Minorities" at the Hague Academy of International Law (1992, *Recueil des cours*, Vol. 231); delivered courses at the Rhodes Academy of Oceans Law and Policy (1999-2001 and 2004); delivered a course on intervention in contemporary international law at the Bancaja Euromediterranean Courses of International Law (Castellón, 2003). Consultant for UNEP, Nairobi (1981 and 1991) and its Co-ordinating Unit for the Mediterranean Action Plan, Athens (1985 and 1990); participated in: Third United Nations Conference on the Law of the Sea (1975-1982); Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1984-1990 and 1994); International Seabed Authority (1994-1996); Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1994-1996); the Sixth Committee of the United Nations General Assembly (1990, 1991, 1995); Working Group on the United Nations Decade of International Law of the Sixth Committee of the United Nations General Assembly (chairman

1990); CSCE Conference on the Human Dimension, Copenhagen Meeting (1990); CSCE Meeting of Experts on National Minorities, Geneva (1991); World Conference on Human Rights, Vienna (1993); 26th International Conference of the Red Cross and Red Crescent (1995).

Member of the Permanent Court of Arbitration (1989-1991 and since 1999); the International Tribunal for the Law of the Sea (since 1996); the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organisation (since 1985); the Commissions of Inquiry formed under Article 26 of the Constitution of the International Labour Organisation to examine the observance by Romania of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (1989-1991) and the observance by Belarus of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (2004); the Court of Conciliation and Arbitration within the OSCE (since 1995); and the European Commission for Democracy through Law (1990-1991).

Associate Member (1991-1997) and Member (since 1997) of the Institut de droit international. Member of the Croatian Society of International Law (since 1961); the Société française pour le droit international (since 1978); the Argentine Society of International Law (since 2002); the Croatian Academy of Juridical Sciences (established in 2001); the International Council of Environmental Law, Bonn (since 1978); the Scientific Council of the European Institute for Marine Studies, Brest, France (since 1997); and the Scientific Council of the Institut de droit économique de la mer, Monaco (since 2000).

Author of numerous books, monographs, articles and papers in various fields of public international law, in particular law of the sea, international environmental law, international protection of human rights and national minorities, including *The Relativity of Treaties* (in Croatian), 1975; *Ethnic Minorities and International Relations* (in Croatian), 1978; *The New Law of the Sea* (ed., in Croatian), 1982; *Essays on the New Law of the Sea*, Vols. I-III (ed.), 1985-1996; *The Legal Regime of Enclosed or Semi-Enclosed Seas. The Particular Case of the Mediterranean* (ed.), 1988; *International Law*, Vol. I (with J. Andrassy and B. Bakotić, in Croatian), 1995; *Law of the Sea: Selected Writings*, 2004.

Judge *ad hoc* Giorgio GAJA

(Judge *ad hoc* in the cases concerning *Legality of Use of Force (Serbia and Montenegro v. Italy)* and *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*)

Born in Lucerne, Switzerland, on 7 December 1939. Italian nationality. Degree in law, University of Rome (1960). *Libera docenza* in international law (1968). Honorary Doctor of Law, Dickinson Law School (1985).

Professor of International Law, University of Florence (since 1974), Dean of the Law School (1978-1981).

Lecturer, Hague Academy of International Law (1981). Part-time Professor, European University Institute (1980 and 1984-1985). Visiting Professor, Johns Hopkins University (1977-1978), University of Geneva (1983 and 1985), University of Paris I (1989 and 2000), University of Aix-Marseille III (1992), Graduate Institute of International Studies (2001); University of Michigan School of Law (1992), and Columbia Law School (1996).

Member of the International Law Commission (since 1999). Delegate of the Italian Government to the Vienna Conference on the Law of Treaties between States and International Organizations and between International Organizations (1986). Counsel to the Italian Government in the *ELSI* case before the International Court of Justice.

Member of the Institut de droit international. Editor of the *Rivista di diritto internazionale*. Member of the Advisory Board of the *Common Market Law Review*, *European Journal of International Law* and *Columbia Journal of European Law*.

Principal publications: *L'esaurimento dei ricorsi interni nel diritto internazionale*, 1967; *La deroga alla giurisdizione italiana*, 1971; *International Commercial Arbitration. The New York Convention* (edited looseleaf volumes), 1978 (updated); *Introduzione al diritto comunitario*, 3rd ed., 2003; "River Pollution in International Law", *Hague Academy of International Law Colloquium, The Protection of the Environment and International Law*, 1975; "Considerazioni sugli effetti delle sentenze di merito della Corte internazionale di giustizia", *Comunicazioni e studi*, Vol. XIV, 1975; "Reservations to Treaties and the Newly Independent States", *Italian Yearbook of International Law*, Vol. I, 1975; "The European Community's Participation in the Law of the Sea Convention: Some Incoherencies in a Compromise Solution", *Italian Yearbook of International Law*, Vol. 5, 1980-1981; "Jus Cogens beyond the Vienna Convention", *Hague Academy of International Law, Recueil des cours*, Vol. 172, 1981; "The European Community's Rights and Obligations under Mixed Agreements", *Mixed Agreements*, 1983; "Effets directs et réciprocité dans la jurisprudence concernant l'accord entre la Communauté européenne et la Suisse", *Annuaire suisse de droit international*, Vol. XL, 1984; "Instruments for Legal Integration in the European Community — A Review" (with P. Hay and R. D. Rotunda), *Integration through Law, Europe and the American Federal Experience*, 1986, Vol. 1.2; "Principi generali del diritto (diritto internazionale)", *Enciclopedia del diritto*, Vol. XXXV, 1986; "Unruly Treaty Reservations", *International Law at the Time of Its Codification. Essays in Honour of Roberto Ago*, 1987, Vol. I: "Italy", *The Effect of Treaties in Domestic Law*, 1987; "A 'New' Vienna Convention on Treaties between States and International Organizations or between International Organizations: A Critical Commentary", *British Year Book of International Law*, Vol. 58, 1987; "Obligations Erga Omnes, International Crimes and Jus Cogens: A

Tentative Analysis of Three Related Concepts", *International Crimes of States*, 1989; "New Developments in a Continuing Story: The Relationship between EEC Law and Italian Law", *Common Market Law Review*, Vol. 27, 1990; "Measures against Terrorist Acts under International Law", *Maritime Terrorism and International Law*, 1990; "Positivism and Dualism in Dionisio Anzilotti", *European Journal of International Law*, Vol. 3, 1992; "Réflexions sur le rôle du Conseil de sécurité dans le nouvel ordre mondial. A propos des rapports entre maintien de la paix et crimes internationaux des Etats", *Revue générale de droit international public*, 1993; "La Convention européenne des droits de l'homme dans les ordres juridiques des Etats membres de la Communauté européenne", *Grundrechtsschutz im europäischen Raum*, 1993; "Beyond the Reasons Stated in Judgments", *Michigan Law Review*, Vol. 92, 1993-1994; "The Protection of Human Rights under the Maastricht Treaty", *Institutional Dynamics of European Integration. Essays in Honour of Henry G. Schermers*, 1994, Vol. II; "Use of Force Made or Authorized by the United Nations", *The United Nations at Age Fifty. A Legal Perspective*, 1995; "Some Reflections on the European Community's International Responsibility", *The Actions for Damages in Community Law*, 1997; "Identifying the Status of General Principles in European Community Law", *Scritti in onore di Giuseppe Federico Mancini*, 1998; "How Flexible Is Flexibility under the Amsterdam Treaty?", *Common Market Law Review*, Vol. 35, 1998; "Restraints Imposed by European Community Law on the Treaty-Making Power of the Member States", *Dealing with Integration*, Vol. 2, 1998; "Does the European Court of Human Rights Use Its Stated Methods of Interpretation?", *Studi in onore di Francesco Capotorti*, 1999; "Trattati internazionali", *Digesto delle discipline pubblicistiche*, Vol. XV, 1999; "New Instruments and Institutions for Enhancing the Protection of Human Rights in Europe?", *The EU and Human Rights*, 1999; "Expulsion of Aliens: Some Old and New Issues in International Law", *Cursos Euromediterráneos Banca de Derecho Internacional*, Vol. III, 1999; "Deliberating on Questions of Jurisdiction in the International Court of Justice", *Liber Amicorum Judge Shigeru Oda*, 2002; "The Long Journey towards Repressing Aggression", *The Rome Statute of the International Criminal Court: A Commentary*, 2002.

Judge *ad hoc* Sir Franklin BERMAN

(Judge *ad hoc* in the case concerning
Certain Property (Liechtenstein v. Germany))

Born in Cape Town, South Africa, on 23 December 1939.

Knight Commander of the Order of St. Michael and St. George (KCMG) (1994) (CMG, 1986).

University of Cape Town, B.A. (1959), B.Sc. (with distinction) (1960). Rhodes Scholar (Cape Province) (1961). University of Oxford: B.A. 1st Class honours (1963), Martin Wronker Prize; M.A. (1965).

Honorary Scholar, Wadham College, Oxford (1963); Honorary Fellow (1995); Fellow (2000).

J.C. Smith Visiting Fellow, University of Nottingham (1992).

Visiting Professor of International Law, University of Oxford (since 2000); University of Cape Town (since 2000); King's College, London (since 2002).

Called to the English Bar (1966); Queen's Counsel (Hon.) (1992); Honorary Bencher, Middle Temple (1997).

Her Majesty's Diplomatic Service (1965-1999): Assistant Legal Adviser, Foreign Office (later Foreign & Commonwealth Office) (1965); Legal Adviser, British Military Government, Berlin (1971); Legal Adviser, British Embassy, Bonn (1972); Legal Counsellor, Foreign & Commonwealth Office (1974); Counsellor and Legal Adviser, United Kingdom Mission to the United Nations (1982); Deputy Legal Adviser, Foreign & Commonwealth Office (1988); Legal Adviser to the Foreign & Commonwealth Office (1991-1999).

Chairman, Diplomatic Service Association (1979-1982).

United Kingdom Alternate Representative on the General Assembly, Security Council and Trusteeship Council (1982-1985); represented the United Kingdom on the Sixth Committee; Host Country Committee; Committee on Review of Applications for Advisory Opinions from Judgments of the United Nations Administrative Tribunal; Legal Subcommittee of the Outer Space Committee; Legal Subcommittee of the Seabed Committee; IAEA Safeguards Committee; Unesco Committee on Ocean Data Stations; Third United Nations Conference on the Law of the Sea; Consultative Meetings of Antarctic Treaty Parties.

Leader, United Kingdom Delegation: United Nations Conference on Treaties between States and International Organizations and between International Organizations (1986); CSCE Meetings of Experts on the establishment of a mechanism for the peaceful settlement of disputes (1978); International Conference of the Red Cross and Red Crescent (1995); Conference on the Establishment of an International Criminal Court (1998).

Deputy Agent, United Kingdom/French Arbitration on the Delimitation of the Continental Shelf (1975-1978); Agent, Young Loan Arbitration (1976-1980); United Kingdom Agent before the International Court of Justice in the case concerning, *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*; participated in the proceedings on the Advisory Opinion on *Legality of the Threat or Use of Nuclear Weapons*; Agent and Counsel, *Legality of Use of Force (Serbia and Montenegro v. United Kingdom)*.

Member of the ICSID Panel of Arbitrators under Section Four of the Washington Convention; arbitrator in cases and annulment proceedings under the ICSID, ICC and LCIA.

Chairman, Diplomatic Service Appeal Board (United Kingdom); Chairman, Appeal Boards of Western European Union and of the

International Oil Pollution Compensation Funds; Chairman, Claims Committee of the General Settlement Fund of the Republic of Austria for the Compensation of Victims of Nazi Persecution.

Chairman, International Law Association Committee on the Accountability of International Organizations (2000-2004); Chairman, Advisory Group on International Law, Royal Institute of International Affairs (Chatham House).

Member of the governing bodies of the British Institute of International & Comparative Law, American Society of International Law, Centre for European and Comparative Law (Oxford); Trustee: Greenwich Foundation for the Royal Naval College, the Whittuck Trust.

Member of the Editorial Board, *British Year Book of International Law*.

Editor, McNair's *The Law of Treaties*.

Author of articles and reviews in learned journals, and chapters in collected essays on various topics in international law and international organization.

Judge *ad hoc* P. Sreenivasa Rao

(Judge *ad hoc* in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge* (Malaysia/Singapore))

Born 28 April 1942.

Bachelor of Arts, Andhra University (1959). Bachelor of Laws, Andhra University (1961). Master of Laws (International Law), Andhra University (1964). Master of Laws (LL.M.), Yale Law School (1968). Doctor of Laws (J.S.D.), Yale Law School (1970). Research Associate, Indian School of International Studies, New Delhi (1965-1967). Recipient of Yale Sterling Law School Fellowship (1967-1970). Fellow, Woodrow Wilson International Center for Scholars, Washington, D.C. (1971-1972). Senior Rockefeller Fellow, Marine Policy and Ocean Management, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts (1972-1974). Visiting Professor, University of Michigan Law School, Ann Arbor, Michigan (2003).

Deputy Director, Indian Ministry of External Affairs (1975-1982). Director, Indian Ministry of External Affairs (1985-1991). Head of the Legal and Treaties Division, Indian Ministry of External Affairs (1985-2002). Joint Secretary, Indian Ministry of External Affairs (1991-2001). Additional Secretary and the Legal Adviser, Indian Ministry of External Affairs, New Delhi (until 2002).

Co-Agent and advocate in the case concerning the *Aerial Incident of 10 August 1999* (Pakistan v. India) before the International Court of Justice.

Member of the Indian delegation to the Third United Nations Conference on the Law of the Sea and the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1976-1984). First Secretary and the Legal

Adviser, Permanent Mission of India to the United Nations, New York (1982-1985). Member of Indian delegations to meetings of the United Nations: Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (1983-1985). Member of the Indian delegation to the Non-Aligned Movement Ministerial Conference on the United Nations Decade of International Law, The Hague (1988). Asian Co-ordinator, Meeting of the Legal Advisers of Foreign Offices of the Member States of the United Nations (since 1988). Member of the Indian delegation to the United Nations General Assembly (Sixth Committee) (1982-2001). Head of the Indian delegation to the meeting of the Working Group of the Sixth Committee of the United Nations General Assembly on International Terrorism (September 2000-February 2002).

Member of the Board of Governors of the International Council of Environmental Law (1993). Member of the International Council of Environmental Law (since 1990). Member of the Governing Board of the India International Law Foundation.

Chairman of the International Law Commission (ILC) (1995). Special Rapporteur for the International Law Commission (ILC) on the subject of international liability (since 1997).

Member of the Editorial Board of the *Indian Journal of International Law*. Member of the Executive Committee of the Indian branch of the International Law Association. Member of the India International Centre, New Delhi (since 1999). Associate member of the Institut de droit international (since 1999). Member of the ICRC Group of Experts on the Identification of Customary International Law Applicable to International Humanitarian Law (Geneva, 1999). Member of the Indian delegation to WIPO on consultations concerning India becoming a party to the Paris Convention (1995). Head of Indian delegations to numerous countries (United States of America, United Kingdom, France, Germany, Canada, Switzerland, Hong Kong, Thailand). Member of the Indian delegation to the Rome Conference on the Establishment of an International Criminal Court (1998).

Vice-President of the Indian Society of International Law (1991-2003). Life member of the Indian Society of International Law.

Member of various other professional associations and committees.

Author of numerous publications on international law.

Judge *ad hoc* Auguste Mampuya KANUNK'A-TSHABO

(Judge *ad hoc* in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*)

Born in Ndemba, province of Kasai-Occidental, Democratic Republic of the Congo, on 13 February 1943.

Licence in law, University of Nancy 2 (1968). *Diplôme d'études supérieures* (DES) in public law, University of Nancy 2 (1969). DES in

political science, University of Nancy 2 (1971). European DES (DESE), Centre européen universitaire, University of Nancy 2 (1970). State doctorate in law, with specialization in public international law, University of Nancy 2 (1972).

Assistant in constitutional law, *chargé d'enseignement* (course in international institutions), University of Rheims (1969-1972). Professor in the law faculty of the University of Kinshasa (since 1972), currently graded *professeur ordinaire*; courses in international law. Visiting Professor at the University of Metz, international law and constitutional law (2001-2003). Visiting Professor (1994-2001) and Professor (since 2002) in the law faculty, University of Nancy, public international law, general theory of law.

Member and Deputy Director of the Centre d'étude et de recherche de droit international et européen (CERDIE), University of Nancy 2. Researcher and analyst in law and politics.

Author of a number of studies in international law, including works of theoretical and applied research: *Emergence des Etats nouveaux et droit international - quelques tendances théoriques*, 1984; *Désuétude du système de sécurité collective*, 1986; *Conflit armé au Congo-Zaïre, ses circonstances et sa gestion sous l'angle du droit des Nations Unies*, 2001.

Minister of Justice of Zaïre (1977). *Chargé de mission*, Ministry for Territorial Administration, with responsibility for decentralization (1981-1983). Legal Adviser to the Board of Directors of Zaïre Universities (1982-1984). Political Counsellor to the Presidency of the Republic, then Senior Presidency Official with the rank of Deputy-Director of the Personal Office of the President (1993-1997). Has carried out a number of official foreign missions (United States of America, United Nations, United Kingdom, France, Panama, Mozambique, Romania).

Expert to the Electoral Institute for Southern Africa (EISA).

Chevalier de l'Ordre national des Palmes académiques (France).

Judge *ad hoc* Joe VERHOEVEN

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*)

Born in Brussels, Belgium, on 12 March 1943.

Doctor of Law (1965) and Agrégé de l'enseignement supérieur (1975).

Former ordinary Professor at the Catholic University of Louvain. Professor at the University of Paris II-Panthéon Assas (since 2000). Professor at the St. Louis University Faculties (Brussels). Law Faculty Course Director for Public International Law and European Community Law (with Mr. Wathelet since 1997), and specialist teaching in these two disciplines.

Member of the Research Council of the Catholic University of Louvain; (President since 1998) of the Commission des sciences juridiques du Fonds national de la recherche scientifique.

Attendance at numerous conferences and teaching abroad (notably: Aix-Marseille, Bordeaux, Hitotsubashi University, Institut universitaire des hautes études internationales (Geneva), New York University, Ottawa, Paris I, Paris II, University of California (Los Angeles)); Visiting Scholar at Stanford Law School (1998).

Teaching at the Hague Academy of International Law (Private International Law Section) in 1985; invited to give the 2002 general course on public international law.

Member of various learned societies (Member-elect of the Council of the French Society for International Law); Member of the editorial board of various law periodicals (including the *Annuaire français de droit international*).

Member of the Permanent Court of Arbitration; expert adviser to the Centre for the Prevention of Conflict in the Organisation for Security and Co-operation in Europe (OSCE).

Participated — as counsel or, in one case, as arbitrator — in certain international arbitrations, *ad hoc* or ICC; State's counsel for Iran in several cases before the Iran-United States Claims Tribunal; various consultative positions.

Member (since 1991) of the Institute of International Law (elected Associate at Helsinki in 1985).

Winner of the Charles De Trooz prize (1965) (for an essay on Luise Rinser), the Henri Rolin prize (1976) (for a work on international recognition) and the Fondation E. de Laveleye prize 1993-1998 (Royal Academy of Belgium).

Author of the following monographs: *La reconnaissance internationale dans la pratique contemporaine. Les relations publiques internationales*, 1975; "Les nullités du droit des gens", *Droit international*, Institut des hautes études internationales de Paris, 1981; "Relations internationales de droit privé en l'absence de reconnaissance d'un Etat, d'un gouvernement ou d'une situation", *Recueil des cours*, Hague Academy of International Law, Vol. 192, 1985; *The Antarctic Environment and International Law* (published in collaboration with Ph. Sands), 1992; *Droit de la Communauté européenne*, 1996, 2nd ed., 2000; *Public International Law*, 2000; and almost 150 legal articles, commentaries or essays in various Belgian or foreign publications or collective works including: "Contrats entre Etats et ressortissants d'autres Etats", *Le contrat économique international. Stabilité et évolution*, VII^{es} Journées d'études juridiques Jean Dabin, 1975; "L'Etat et l'ordre juridique international. Remarques", *RGDIP*, 1978; "Droit international des contrats et droit des gens", *RBDI*, 1978-1979; "La notion d'applicabilité directe du droit international", *RBDI*, 1980; "Sanctions internationales et communautés européennes. A propos de l'affaire des îles Falkland (Malvinas)", *Cah. dr. europ.*, 1984; "Sur les conflits de lois en droit des gens", *Journal du droit international*, 1984; "Le droit, le juge et la violence. Les arrêts Nicaragua v. United States", *Rev. gén. dr. int. public*, 1987; "Sur la Palestine en droit international privé, note sous AG Neumünster", *Revue*

critique de droit international privé, 1988; "Etats alliés ou Nations Unies, L'ONU face au conflit entre l'Irak et le Koweït", *AFDI*, 1990; "Sur la récupération à l'étranger des sommes détournées par d'anciens chefs d'Etat", *Mélanges Lalive, Helbing et Lichtenhahn, Bâle-Francfort*, 1993; "Les citoyens de l'Europe", *Annales dr. Louvain*, 1993; "Sovereign States: A Collectivity or a Community?", *Hitotsubashi Journal of Law and Politics*, 1994; "La reconnaissance internationale: déclin ou renouveau?", *AFDI*, 1993; "Human Rights, Intervention and Universality", *Hungdah Chin et al., Proceedings of the International Law Association (ILA), First Asian-Pacific Regional Conference*, 1995; "Les principales étapes de la protection internationale des minorités", *Rev. trim. Dr. H.*, 1997; "L'application ou la prise en considération des directives communautaires en droit belge, note sous Cass., 2 Dec. 1996", *Rev. crit. j. b.*, 1998; "La Communauté européenne et la sanction internationale de la démocratie et des droits de l'homme", *Liber Amicorum Mohammed Bedjaoui*, 1999; "Jus Cogens and Reservation or 'Counter-Reservations' to the Jurisdiction of the International Court of Justice", in K. Wellens (ed.), *International Law: Theory and Practice, Essays in Honour of E. Suy*, 1998; "Mr. Pinochet, la coutume internationale et la compétence universelle, note sous Civ. Bruxelles, 6 Nov. 1998", *JT*, 1999.

Judge *ad hoc* Mohamed BENNOUNA

(Judge *ad hoc* in the case concerning the *Frontier Dispute (Benin/Niger)*)

Agrégé in public law and political science, Paris (1972). Doctorate in International Law, Diploma from the Hague Academy of International Law.

Professor, then Dean, Faculty of Law, Rabat (Morocco) (1972-1984). Visiting Professor at various universities: Tunis, Algiers, Nice, New York, Salonika, Paris.

Legal Adviser to the Moroccan Delegation at numerous sessions of the United Nations General Assembly (since 1974). Member of the Moroccan Delegation to the United Nations Conference on the Law of the Sea (1974-1982). Ambassador, Deputy Permanent Representative of Morocco to the United Nations (1985-1989).

Director General of the Institut du monde arabe (IMA, Paris) (1991-1998).

Member of the International Bioethics Committee (Unesco) (1992-1998) and of the International Panel on Democracy and Development (Unesco) (from 1997). Chairman of a panel of the United Nations Compensation Commission (UNCC) in Geneva (1992-1995). Member of the United Nations International Law Commission (Geneva) (1986-1998).

Judge at the International Criminal Tribunal for the former Yugoslavia in The Hague (1998-2001).

Ambassador, Permanent Representative of Morocco to the United Nations (since March 2001).

Author of numerous works and articles, in the fields of peacekeeping and international security, the law of the sea, the law of development and international criminal law.

Member of numerous learned bodies, in particular the Institut de droit international.

Prix National de la Culture of Morocco. Award for Culture of the Yemen. Chevalier de l'Ordre national de la Légion d'honneur of France.

Judge *ad hoc* James L. KATEKA

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*)

Born on 25 April 1945 in Karagwe District, Tanzania.

Bachelor of Laws Degree with Honours, University College Dar es Salaam of the University of East Africa (1970); Master of Laws (specializing in international law), King's College, University of London (1974).

Career diplomat who joined Tanzania's Ministry of Foreign Affairs in 1970: Third Secretary in the Protocol and Treaties Division (1970-1973); Second Secretary and Head of the Legal Section (1973-1975); First Secretary (1976-1978) and Counsellor (1978-1980) of the Tanzanian Mission to the United Nations in New York; Counsellor and later Minister Plenipotentiary serving as Head of the Treaties Section in the Ministry of Foreign Affairs (1980-1983); Director of the Ministry's Department for Legal Affairs and International Organizations (1983-1989). Ambassador of Tanzania to the Federal Republic of Germany, concurrently accredited to Austria, the Holy See, Poland, Romania and Switzerland (1989-1994). Ambassador of Tanzania to the Russian Federation (1994-1998). Ambassador of Tanzania to Sweden, concurrently accredited to the other Nordic countries of Denmark, Finland, Norway and Iceland and the Baltic Republics of Estonia, Latvia and Lithuania (since 1998).

Attended twelve sessions of the United Nations General Assembly between 1976 and 1988 and in 1996. Served in the Sixth Committee (Legal) and in the First Committee. Attended as a specialist in the law of the sea all sessions of the Third United Nations Conference on the Law of the Sea (1973-1982). Attended all sessions of the United Nations Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea (1983 and 1993). Participated in the first session of the Assembly of the International Seabed Authority in Kingston, Jamaica (1994 and 1995). Attended all sessions of the United Nations Committee for the Peaceful Uses of the Seabed beyond the Limits of National Jurisdiction (this Committee prepared for the Third United Nations Conference on the Law of the Sea.

1971 and 1973). Tanzania's delegate to the Stockholm Conference on the Human Environment, which was the first such global conference (1972). Participated in the London Conference which drafted the Anti-dumping Convention (1972). Took part in the IMCO (now IMO) Conference on the Marine Pollution Convention (1973). Head of Tanzania's delegation to the Diplomatic Conference on Territorial Asylum in Geneva (1977) and to the conference which adopted the Vienna Convention on Succession of States in respect of Treaties (1978). Took part in the Commonwealth Heads of Government meeting in New Delhi (1983). Attended the United Nations conference on Women, in Nairobi (1985), and the 25th Session of the Asian African Legal Consultative Committee (AALCC) which met in Arusha, Tanzania (1985). Tanzania's representative in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations; the *ad hoc* committee for the drafting of a convention against the taking of hostages and the conference which adopted the convention; and the *ad hoc* committee on the Indian Ocean as a zone of peace.

Member (since 1997) of the United Nations International Law Commission; Vice-Chairman (2002).

Partner in the law firm of South Law Chambers (Dar es Salaam). Has published articles and lectured on international law, including on the law of the sea and on human rights.

Awarded the Papai Honour of the Grand Cross with the Star of the Order of Pius the Ninth in 1993 by Pope John Paul II. Member (since 1997) and Vice-President (2002) of the United Nations International Law Commission.

Judge *ad hoc* Milenko KREČA

(Judge *ad hoc* in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)* and the cases concerning *Legality of Use of Force (Serbia and Montenegro v. Belgium)* (*Serbia and Montenegro v. Canada*) (*Serbia and Montenegro v. France*) (*Serbia and Montenegro v. Germany*) (*Serbia and Montenegro v. Italy*) (*Serbia and Montenegro v. Netherlands*) (*Serbia and Montenegro v. Portugal*) (*Serbia and Montenegro v. United Kingdom*)

Born in Sisak, Croatia, on 19 August 1947.

Received M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School of Law, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law. Head of Chair of International Law and International Relations at the Faculty of Law in Belgrade (since 1997); Director of the Institute for International Politics and Economics (1997-2000); President of the Council of the Institute for Comparative Law (1997-2000); Member of the Federal Commission for Harmonization of FRY Law with the Laws of EU, EC and WTO (since 1998); Member of the Board of the Faculty of Law in Belgrade (1998-2000).

Arbitrator of the Permanent Arbitration at the Commercial Chamber of the Republic of Serbia (since 2000); President of the Scientific Council for Legal and Political Sciences at Belgrade University (1999-2004); President of the International Criminal Law Association (since 2002); Director of the Institute for Legal Studies, Faculty of Law, Belgrade.

Was on several occasions legal adviser to the Ministry of Foreign Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia.

Founder of the *Review of EU Legislation* (Belgrade, Institute for International Politics and Economics).

Principal publications: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993, 1996, 1997, 1999, 2001, 2003, 2004; *Sources of International Public Law*, 1979, 1985, 1999, 2004; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law, I-III* (co-author), 1988-1989; *Law of the Sea - Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in International Law*, 1991. Author of over 70 articles and papers in Serbian and foreign languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law. Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992; "A Few Remarks on Theoretical Basis of the New Law of the Sea", *Liber Amicorum Judge Shigeru Oda*.

Judge *ad hoc* Jean-Yves DE CARA

(Judge *ad hoc* in the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)*)

Born in Oujda (Morocco) on 26 June 1950.

Licence in Law, Faculty of Law, Lyon (1973). *Diplôme d'études supérieures* (DES) in Public Law and Political Science, and DES in History of Law and Roman Law, Lyon III. Doctorate in Public Law, Lyon III (1981). *Agrégation* of the Faculties of Law (1994).

Law Clerk to Sir Gordon Slynn, now the Rt. Hon. The Lord Slynn of Hadley, at the Court of Justice of the European Communities (1989-1992).

Professor, University of Toulon and of the Var (1994-1996) and Institut d'études politiques of Aix-en-Provence. Director, Centre for International European and Comparative Law. Professor, Faculty of Law, University Jean Moulin Lyon III (1996-2003). Professor, Faculty of Law, University René Descartes Paris V (since 2003).

Visiting Professor, University of Durham (1993-1997), Athens Georgia (United States, 1996-2003), Konstanz (Germany, since 1998), St. Joseph University, Beirut (since 2000). Visiting Fellow, University of Cambridge (1996-1997).

Lawyer of the Lyon Bar (1989-1998). Littleton Chambers, Temple, London (since 2000).

Author of many publications on constitutional law, international law and community law.

Judge *ad hoc* Patrick Fernand Odier Marie DUNSLAEGER

(Judge *ad hoc* in the case concerning *Legality of Use of Force*
(*Serbia and Montenegro v. Belgium*))

Born at Ostend, Belgium, on 30 May 1953.

Licencié en droit, University of Brussels (First Class Honours) (1978).

Trainee advocate at the Brussels Bar and judicial trainee in the Public Prosecutor's Office at the Brussels Court of First Instance (1978-1983); Deputy Prosecutor (1983), and Senior Deputy Prosecutor, Crown Prosecutor's Office, Brussels (1988); Deputy Prosecutor-General, Court of Appeal, Brussels (1991).

Joint Director, Interforces Anti-terrorist Group (1984-1997); Joint Director, Special Police Unit for the Suppression of Terrorism and Organized Crime (1987-1997).

Member of various supervisory committees set up by the Minister of the Interior to oversee university research (1988-1997), Lecturer [*chargé de cours*] at the Ecole de Criminologie et de Criminalistique (Institut National de Criminologie et de Criminalistique) (1989-1997).

Chair of the Belgian Delegation to the "Benelux" Working Group for International Co-operation (1993).

Senior State Judicial Officer responsible for national and international co-ordination of the fight against organized crime and for international police and judicial co-operation (1991-1997).

Appointed Judicial Liaison Officer for Belgium to the International Criminal Tribunal for the former Yugoslavia and to the International Criminal Tribunal for Rwanda (1995-1998).

Head of Cabinet to the Minister of Justice (1998-1999).

Advocate-General at the Court of Cassation (1999).

Commander of the Order of Leopold.

Knight of the Order of the Crown.

Judge *ad hoc* Jean-Pierre MAVUNGU MVUMBI-DE-NGOMA

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*)

Born on 22 December 1956 at Nsumbi (Province of Bas-Congo), Democratic Republic of the Congo.

Graduate of the Ecole nationale d'administration publique of Rabat. Licence in law, Mohamed V University, Morocco (1980). Graduate of the Institut universitaire de hautes études internationales of Geneva (1987). Doctor of Law, University of Fribourg, Switzerland (1992). Agrégé in public law (1992).

Graduate assistant and lecturer in public international law and public law at the University of Fribourg (1990-1995). Associate Professor and Head of the Department of public international law and international relations of the University of Kinshasa (since 1995). Professor and Head of Department of public law at the Faculty of Law of the Protestant University in the Congo (since 1997).

Directeur de cabinet to the Minister for Human Rights (1998-1999, 2001). Member of the Congolese Delegation to the 55th Session and 57th Session of the United Nations Human Rights Commission (Geneva). Member of the Congolese Delegation to the 54th Session of the United Nations General Assembly (New York). Resource officer at the Regional Seminar on the Promotion of Economic, Social and Cultural Rights in Africa (Abidjan, Côte d'Ivoire, 1998).

Co-ordinator of the 10th Diplomatic Conference organized by the Ministry of Foreign Affairs and International Co-operation (Kinshasa, December 2002).

Abassador Extraordinary and Plenipotentiary of the Democratic Republic of the Congo to the European Union (Brussels, since July 2003).

Member of the Association of Professors of the University of Kinshasa, of the Alumni Association of the University of Fribourg and the Alumni Association of the Université de hautes études internationales of Geneva. Former member of the African Society for International and Comparative Law.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) States Members of the United Nations

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 2005 the following 191 States were Members of the United Nations:

<i>State</i>	<i>Date of Admission</i>
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

<i>State</i>	<i>Date of Admission</i>
Belarus	Original Member
Belgium	" "
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	" "
Chile	Original Member
China	" "
Colombia	" "
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Democratic Republic of the Congo	20 September 1960
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	" "
Egypt	" "
El Salvador	" "
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

<i>State</i>	<i>Date of Admission</i>
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	" "
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	" "
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kiribati	14 September 1999
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991

<i>State</i>	<i>Date of Admission</i>
Mauritania	27 October 1961
Mauritius	24 April 1968
Mexico	Original Member
Micronesia (Federated States of)	17 September 1991
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nauru	14 September 1999
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	" "
Nicaragua	" "
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	" "
Philippines	" "
Poland	" "
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Republic of Moldova	2 March 1992
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
Saint Kitts and Nevis	23 September 1983
Saint Lucia	18 September 1979
Saint Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Serbia and Montenegro	1 November 2000 ¹

¹ The Socialist Federal Republic of Yugoslavia was an original Member of the United Nations, the Charter having been signed on its behalf on 26 June 1945 and ratified

<i>State</i>	<i>Date of Admission</i>
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Switzerland	10 September 2002
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Timor-Leste	27 September 2002
Togo	20 September 1960
Tonga	14 September 1999
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Tuvalu	5 September 2000
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "

19 October 1945, until the dissolution of that State in 1992. The Federal Republic of Yugoslavia deposited with the Secretary-General of the United Nations, on 26 April 1999, a declaration of acceptance of the compulsory jurisdiction of the International Court of Justice. By General Assembly resolution A/RES/55/12 of 1 November 2000 the Federal Republic of Yugoslavia was admitted as a Member of the United Nations. The issue whether or not the Federal Republic of Yugoslavia was a Member of the United Nations between 1992 and 1 November 2000 has been raised in several pending cases before the Court. Following the adoption and the promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the State of the Federal Republic of Yugoslavia was changed to Serbia and Montenegro.

<i>State</i>	<i>Date of Admission</i>
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*¹

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council².

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

“(a) Acceptance of the provisions of the Statute of the International Court of Justice;

(b) Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;

(c) An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government.”³

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

“1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.

¹ The full text of the resolutions referred to in this section is given on pages 175-183 of *I.C.J. Acts and Documents No. 5*.

² Before becoming Members of the United Nations, Japan, Liechtenstein, San Marino, Nauru and Switzerland were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950, 18 February 1954, 29 January 1988 and 28 July 1948, respectively.

³ See below, Chap. VIII, p. 337.

2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.

3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

"(a) A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;

(b) Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute¹. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

"The Security Council

In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,

¹ See also Rules, Art. 26, para. 1 (c), and Art. 41, and below, Chap. VIII, p. 337.

Resolves that:

1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter:

2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice:

3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations:

4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;

5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. Basis of the Court's Jurisdiction

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open¹. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose². The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

¹ In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America* (*United States of America v. Hungary*) (*United States of America v. USSR*); *Aerial Incident of 10 March 1953* (*United States of America v. Czechoslovakia*); *Antarctica* (*United Kingdom v. Argentina*) (*United Kingdom v. Chile*); *Aerial Incident of 7 October 1952* (*United States of America v. USSR*); *Aerial Incident of 4 September 1954* (*United States of America v. USSR*); *Aerial Incident of 7 November 1954* (*United States of America v. USSR*). On 1 July 1978 the present Rules of Court came into force, Article 38, paragraph 5, of which provides:

"When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Article 38, paragraph 5, has been applied with regard to an Application filed by Hungary on 23 October 1992, instituting proceedings against the Czech and Slovak Republic, an Application filed by the Federal Republic of Yugoslavia on 16 March 1994, instituting proceedings against the Member States of NATO, an Application filed by Eritrea on 16 February 1999, instituting proceedings against Ethiopia, and an Application filed by the Republic of the Congo on 9 December 2002, instituting proceedings against France. As far as the Application filed by the Republic of the Congo against France is concerned, the Respondent consented to the Court's jurisdiction on 11 April 2003. That consent led to the case being entered into the General List with effect from the date of receipt of the consent as *Certain Criminal Proceedings (Republic of the Congo v. France)*. In the cases concerning *Legality of Use of Force (Serbia and Montenegro v. France)* (*Serbia and Montenegro v. Germany*) (*Serbia and Montenegro v. Italy*) (*Serbia and Montenegro v. United States of America*), Serbia and Montenegro (formerly called Yugoslavia) referred to Article IX of the Genocide Convention of 1948 and to Article 38, paragraph 5, of the Rules of Court as bases for the jurisdiction of the Court. The cases were entered in the General List on the basis of the reference to Article IX of the Genocide Convention.

² The following 16 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru)*; *Minquiers and Ecrhos (France/United Kingdom)*; *Sovereignty over Certain Frontier Land (Belgium/Netherlands)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Delimitation of the Maritime Boundary in the Gulf*

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*¹; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 159-180). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 109-115) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court (P.C.I.J., Series D, No. 6, fourth edition)* and subsequently in Chapter X of its *Annual Reports (P.C.I.J., Series E, Nos. 8-16)* the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

of Maine Area (Canada/United States of America) (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*; *Kasikili/Sedudu Island (Botswana/Namibia)*; *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*; *Frontier Dispute (Benin/Niger)*; *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. In the *Corfu Channel (United Kingdom v. Albania)* case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)* was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

¹ With the exception of the 16 cases listed on page 101, footnote 2, which were brought by the notification of a special agreement, all contentious cases have been brought before the Court by means of an application instituting proceedings, irrespective of whether the Court's jurisdiction was founded on a provision in a treaty or convention, declarations recognizing the Court's jurisdiction as obligatory made by each of the parties to the dispute, or any other alleged form of consent.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

"2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 113-159).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections¹.

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the

¹ See below, Chap. V, Sec. III, part 3, pp. 199-200.

request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)¹.

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)².

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

"Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

¹ An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case, by Tunisia (along with an application for revision) in respect of the Judgment delivered by the Court on 24 February 1982 in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, and by Nigeria in respect of the Court's Judgment on preliminary objections of 11 June 1998 in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*.

² An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. An application for revision of the Court's Judgment on preliminary objections of 11 July 1996 was filed by Yugoslavia in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*. An application for revision of the Judgment of 11 September 1992 was filed by El Salvador in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.

The following organs and agencies are at present authorized to request advisory opinions¹:

United Nations:

General Assembly²,

Security Council³,

Economic and Social Council⁴,

Trusteeship Council,

Interim Committee of the General Assembly;

International Labour Organization;

Food and Agriculture Organization of the United Nations;

United Nations Educational, Scientific and Cultural Organization⁵;

World Health Organization⁶;

International Bank for Reconstruction and Development;

International Finance Corporation;

International Development Association;

International Monetary Fund;

International Civil Aviation Organization;

International Telecommunication Union;

International Fund for Agricultural Development;

World Meteorological Organization;

¹ The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

² The General Assembly has requested 15 advisory opinions of the Court in the following 14 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*; *Reparation for Injuries Suffered in the Service of the United Nations*; *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase*; *id.*, *Second Phase*; *Competence of the General Assembly for the Admission of a State to the United Nations*; *International Status of South West Africa*; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*; *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*; *Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa*; *Admissibility of Hearings of Petitioners by the Committee on South West Africa*; *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*; *Western Sahara: Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*; *Legality of the Threat or Use of Nuclear Weapons*; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.

³ The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*.

⁴ The Economic and Social Council requested an advisory opinion of the Court in two cases: *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations and Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*.

⁵ The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco*.

⁶ The World Health Assembly requested an advisory opinion of the Court in two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt and Legality of the Use by a State of Nuclear Weapons in Armed Conflict*.

International Maritime Organization¹;
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 107-113) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

¹ The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization*.

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION
OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE
UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS
WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter¹; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

¹ By resolution 957 (X) of 8 November 1955 the General Assembly, amending the Statute of the United Nations Administrative Tribunal (Art. 11), authorized the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice. By resolution 50/54 of 11 December 1995, the General Assembly amended the Tribunal's Statute again, *inter alia* deleting Article 11 with respect to Judgements rendered after 31 December 1995.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3¹.

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

2. All Specialized Agencies

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on

¹ The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. *International Labour Organization*

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII¹.

4. *Food and Agriculture Organization of the United Nations*

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. *United Nations Educational, Scientific and Cultural Organization*

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

¹ The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)¹.

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X² (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

¹ See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

² Article XI before the revision of 1962.

8. *International Monetary Fund*

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. *International Civil Aviation Organization*

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. *International Telecommunication Union*

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. *World Meteorological Organization*

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. *International Maritime Organization*

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)¹.

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly

¹ As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the

establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 2005 will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

During the 12 months under review, Portugal, on 18 February 2005, deposited a declaration amending its previous declaration, deposited on 19 December 1955.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now six such declarations.

The declarations, deposited by a total of 65 States¹, are given here in English². Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

¹ Since 1951, thirteen other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, Colombia, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

² French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

22 III 2002.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations, of which the Statute of the International Court of Justice is an integral part; and

Whereas the Government of Australia deposited for and on behalf of Australia on the first day of November one thousand nine hundred and forty-five its instrument of ratification to the Statute of the International Court of Justice done at San Francisco on the twenty-sixth day of June, one thousand nine hundred and forty-five; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the thirteenth day of March one thousand nine hundred and seventy-five effective until such time as notice may be given to withdraw that declaration;

The Government of Australia, having considered the said declaration, hereby gives notice effective immediately of the *withdrawal* of that declaration and *replaces* the same with the following declaration:

The Government of Australia declares that it recognizes as compulsory *ipso facto* and without special-agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to the Secretary-General of the United Nations withdrawing this declaration. This declaration is effective immediately.

This declaration does not apply to:

- (a) any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (b) any dispute concerning or relating to the delimitation of maritime zones, including the territorial sea, the exclusive economic zone and the continental shelf, or arising out of, concerning, or relating to the exploitation of any disputed area of or adjacent to any such maritime zone pending its delimitation;
- (c) any dispute in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than 12 months prior to the filing of the application bringing the dispute before the Court.

¹ This declaration replaced that of 13 March 1975 (United Nations, *Treaty Series*, Vol. 961, p. 183), notice of the withdrawal and termination of which was given by letter of 22 March 2002, received by the Secretary-General of the United Nations.

In witness whereof, I, Alexander John Gosse Downer, Minister for Foreign Affairs, have hereunto set my hand and affixed my seal.

Done at Canberra this 21st day of March, two thousand and two.

(Signed) Alexander John Gosse DOWNER,
Minister for Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(Signed) Franz JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(Signed) Bruno KREISKY,
The Federal Chancellor.
(Signed) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

I VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to

terminate the acceptance, over all disputes arising after the declaration is made, other than:

- (a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,
- (b) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,
- (c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,
- (d) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(Signed) H. de B. FORDE,
Minister of External Affairs.

BELGIUM¹

[Translation from the French]

17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification². It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(Signed) V. LAROCK,
Minister
for Foreign Affairs.

¹ Belgium had deposited in 1948 a declaration valid for five years (United Nations, *Treaty Series*, I, No. 260, Vol. 16).

² The instrument of ratification was deposited on 17 June 1958.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

- (a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
- (b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(Signed) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian]

24 VI 92.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation.

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(Signed) S. GANEV,

Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French]

19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

- (1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;
- (3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(Signed) SIM VAR.

CAMEROON

[Translation from the French by the Registry]

3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

New York, 2 March 1994.

(Signed) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

- (1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985¹ in conformity with paragraph 2 of Article 36 of the Statute of the Court.
- (2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:
 - (a) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
 - (b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
 - (c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and
 - (d) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on

¹ I.C.J. Yearbook 1992-1993, pp. 79-80.

Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

- (3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(Signed) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

COSTA RICA

[Translation from the Spanish]

20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO,
Minister for Foreign Affairs.

CÔTE D'IVOIRE

[Translation from the French]

29 VIII 2001.

Concerned on the one hand to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and on the other hand to contribute to the development and strengthening of international law, the Republic of Côte d'Ivoire, pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;

- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the exception of:

1. disputes concerning which the parties have agreed to have recourse to some other method of settlement;
2. disputes with regard to questions which by international law fall within the exclusive competence of Côte d'Ivoire.

The present declaration has been made for an unlimited period, subject to the power of denunciation and modification attached to any obligation assumed by a State in its international relations.

It will enter into force when it is received by the Secretary-General of the United Nations.

Abidjan, 22 August 2001.

(Signed) Sangaré Abou DRAHAMANE,
Minister of State,
Minister for Foreign Affairs.

CYPRUS¹

3 IX 2002.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

- (a) the interpretation of any treaty
 - I. to which the Republic of Cyprus became a party on or after 16 August 1960 or
 - II. which the Republic of Cyprus recognizes as binding on it by succession;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

¹ This declaration replaced that of 29 April 1988 (United Nations, *Treaty Series*, Vol. 1502, p. 337), notice of the withdrawal and termination of which was given by letter of 3 September 2002, received by the Secretary-General of the United Nations.

Provided that this declaration shall not apply:

- i. to disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;
- ii. to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus.

2. The Government of the Republic of Cyprus also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 3 September 2002.

(Signed) Ioannis KASOULIDES,
Minister for Foreign Affairs.

DEMOCRATIC REPUBLIC OF THE CONGO

[Translation from the French]

8 II 89.

... in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(Signed) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

DENMARK¹

[Translation from the French]

10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,

Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[Translation from the French]

30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification², I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 (b) of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"³, the Government of the Republic of Egypt accept as compulsory

¹ This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

² The instrument of ratification was deposited on 4 February 1933.

³ United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

ipso facto, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 (b) of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court.

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,

Chairman of the Supreme Council.

FINLAND

[Translation from the French]

25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

New York, 25 June 1958.

(Signed) G. A. GRIPENBERG,

Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

- (a) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
- (b) disputes with any country in the Commonwealth;
- (c) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(Signed) A. B. N'JIE,

Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Tbilisi, 16 June 1995.

(Signed) Alexander CHIKVAIDZE,

Minister of Foreign Affairs
of the Republic of Georgia.

GREECE

[Translation from the French]

10 I 94.

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(Signed) KAROLOS PAPOULIAS,
Minister for Foreign Affairs.

GUINEA

[Unofficial translation from the French by the Registry]

4 XII 98.

I have the honour, in the name of the Government of the Republic of Guinea, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the said Government accepts as compulsory *ipso facto* and without special agreement, in relation to any other States accepting the same obligation, the jurisdiction of the Court in all legal disputes arising since 12 December 1958 and subsequent to this declaration concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

The Republic of Guinea makes this declaration on condition of reciprocity on the part of all States. However, it may refuse to accept the jurisdiction of the Court in the case of:

- (a) disputes in respect of which the parties have agreed to have recourse to some other mode of settlement;
- (b) disputes concerning questions which, under international law, fall within the exclusive jurisdiction of the Republic of Guinea.

Finally, the Government of the Republic of Guinea reserves the right

at any time, by means of a notification addressed to the Secretary-General of the United Nations, to amend or withdraw this declaration.

Conakry, 11 November 1998.

(Signed) Lamine KAMARA,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French]

7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(Signed) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French]

4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish]

6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960¹ as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;

¹ I.C.J. Yearbook 1984-1985, pp. 78-79.

- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
 - (d) the nature or extent of the reparation to be made for the breach of an international obligation.
2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:
- (a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
 - (b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
 - (c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
 - (d) disputes referring to:
 - (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;
 - (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
 - (iii) the airspace over the territories, waters and zones referred to in this subparagraph.
3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36.

paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

- (a) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (b) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;
- (c) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;
- (d) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(Signed) Dr. GÉZA JESZENSZKY,
Minister for Foreign Affairs
of the Republic of Hungary.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

- (1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

- (2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;
- (3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;
- (4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;
- (5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;
- (6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;
- (7) disputes concerning the interpretation or application of a multi-lateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;
- (8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;
- (9) disputes with non-sovereign States or territories;
- (10) disputes with India concerning or relating to:
 - (a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;
 - (b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;
 - (c) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;
 - (d) the airspace superjacent to its land and maritime territory; and
 - (e) the determination and delimitation of its maritime boundaries.
- (11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959¹.

New Delhi, 15 September 1974.

(Signed) Swaran SINGH,
Minister for External Affairs.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(Signed) KOTO MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

- (1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

¹ United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

- (2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;
- (3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;
- (4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(Signed) Joseph MURUMBI,
Minister for External Affairs.

LESOTHO

6 IX 2000.

On behalf of the Kingdom of Lesotho, I have the honour to declare that the Kingdom of Lesotho recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute the solution of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force until notice of its termination is given.

Dated at Maseru, this 31st day of August 2000.

(Signed) Motsoahae Thomas THABANE,
Minister of Foreign Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without

special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

- (a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
- (b) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification¹ and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. DENNIS,
Secretary of State.

LIECHTENSTEIN

[Translation from the French]

29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;

¹ The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute¹ and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,

(Signed) A. FRICK,

The Head of Government.

LUXEMBOURG²

[Translation from the French]

15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(Signed) BECH.

MADAGASCAR

[Translation from the French]

2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation

¹ Liechtenstein became a party to the Statute of the Court on 29 March 1950.

² The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning –

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided that this declaration shall not apply to –

- (i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;

- (ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
- (iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(Signed) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA¹

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;
- (v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before

¹ By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

the Court, or (2) the Government of Malta specially agrees to jurisdiction;

- (vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;
- (vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
- (viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(Signed) G. FELICE,

Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

- (1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
- (2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

- (a) its territory, including the territorial sea, and the status thereof,
- (b) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
- (c) the determination or delimitation of any of the above,

- (d) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(Signed) Alex SCEBERAS TRIGON,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;
- (v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;
- (vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
- (vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or

where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(Signed) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[Translation from the Spanish]

28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(Signed) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

9 IX 92.

On behalf of the Government of the Republic of Nauru, I have the honour to refer to the Republic's Declaration dated 30 December 1987¹, deposited with the United Nations Secretary-General on 29 January 1988.

¹ I.C.J. Yearbook 1987-1988, p. 84.

whereby the Republic has accepted as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulated that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

I have the further honour to declare that the aforesaid Declaration shall stand renewed and extended on 29 January 1993 and continue to be in force for a further period of five years from that date.

In witness whereof, I set my hand and the Common Seal of the Republic of Nauru, this fourth day of the month of September one thousand nine hundred and ninety-two.

(Signed) Bernard DOWIYOGO,
President
and Minister for External Affairs,
Republic of Nauru.

NETHERLANDS

[Translation from the French].

I VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946¹ is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(Signed) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

¹ United Nations, *Treaty Series*, I, No. 2, Vol. 1.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

- (I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940¹ under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.
- (II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:
 - (1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
 - (2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;
 - (3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(Signed) M. J. C. TEMPLETON,
Permanent Representative of
New Zealand to the United Nations.

¹ I.C.J. Yearbook 1976-1977, pp. 69 f.

NICARAGUA

[Translation from the French]

24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

Reservation¹

24 X 2001.

Nicaragua will not accept the jurisdiction or competence of the International Court of Justice in relation to any matter or claim based on interpretations of treaties or arbitral awards that were signed and ratified or made, respectively, prior to 31 December 1901.

Managua, 23 October 2001.

(Signed) FRANCISCO X. AGUIRRE SACASA.

NIGERIA

30 IV 98.

I have the honour, on behalf of the Government of the Federal Republic of Nigeria, to declare that the acceptance by the Government of the Federal Republic of Nigeria of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on

¹ This is the text of the reservation as received by the Secretary-General of the United Nations by letter of 23 October 2001. The first paragraph of that letter read as follows:

"I have the honour to inform you and, through you, all the States parties to the Statute of the International Court of Justice and the Secretariat of the Court, of the reservation made to Nicaragua's voluntary acceptance of the jurisdiction of the International Court of Justice by Presidential Decision No. 335-2001 of 22 October 2001, issued by the President of the Republic, Mr. Arnoldo Alemán Lacayo, the text of which is as follows: ..."

On 9 January 2002 the Secretary-General received from the Government of Costa Rica a communication transmitting the text of a formal objection to the reservation formulated by Nicaragua.

On 23 October 2002, the Permanent Mission of Costa Rica to the United Nations notified the Secretary-General of an Agreement of 26 September 2002 between the Governments of Nicaragua and of Costa Rica by which Nicaragua (*inter alia*) "undertakes to maintain, for a period of three years from today's date, the legal status existing on today's date with respect to its declaration of acceptance of the jurisdiction of the International Court of Justice".

14 August 1965 under Article 36 of the Statute of the Court is hereby amended so as to read as set out in the following paragraph:

In conformity with paragraph 2 of Article 36 of the Statute, the Government of the Federal Republic of Nigeria accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court over all legal disputes referred to in that paragraph of the Statute, other than:

- (i) disputes in respect of which any party to the dispute has accepted the jurisdiction of the Court by a Declaration deposited less than twelve months prior to the filing of an Application bringing the dispute before the Court after the date of this amended Declaration;
- (ii) disputes in respect of which any party has filed an Application in substitution for or in lieu of all or any part of any Application to which subparagraph (i) refers;
- (iii) disputes relating to matters which are essentially within the domestic jurisdiction of the Federal Republic of Nigeria;
- (iv) disputes in respect of which any other party to the dispute has accepted the jurisdiction of the Court in relation to or for the purposes of the dispute;
- (v) disputes in regard to which the parties have agreed or agree to have recourse to any other method of peaceful settlement;
- (vi) disputes relating to or connected with facts or situations of hostilities or armed conflict, whether internal or international in character;
- (vii) disputes with any State with which the Government of Nigeria does not have diplomatic relations;
- (viii) disputes concerning the allocation, delimitation or demarcation of territory (whether land, maritime, lacustrine or superjacent air space) unless the Government of Nigeria specially agrees to such jurisdiction and within the limits of any such special agreement;
- (ix) disputes in relation to matters which arose prior to the date of Nigeria's independence, including any dispute the causes, origins or bases of which arose prior to that date.

The Government of the Federal Republic of Nigeria further reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, to add to, amend or withdraw this Declaration or the reservations contained therein or any that may hereafter be added.

Done at Abuja, this 29th day of April 1998.

(Signed) Chief Tom IKIMI,
Hon. Minister of Foreign Affairs,
Federal Republic of Nigeria.

NORWAY¹

25 VI 96.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the limitations and exceptions relating to the settlement of disputes pursuant to the provisions of, and the Norwegian declarations applicable at any given time to, the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, shall apply to all disputes concerning the law of the sea.

New York, 24 June 1996.

(Signed) Hans Jacob Biørn LIAN,
Permanent Representative of
Norway to the United Nations.

PAKISTAN²

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

¹ This is the text of the declaration as amended by letter of 24 June 1996 received by the Secretary-General of the United Nations on the following day. The first paragraph of that letter read as follows:

"On behalf of the Government of Norway,

I give notice that I hereby amend the acceptance by Norway of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 2 April 1976 in conformity with paragraph 2 of Article 36 of the Statute of the Court. As amended, the declaration shall read . . ."

The declaration of 1976 replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

² This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

- (a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
- (b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
- (c) disputes arising under a multilateral treaty unless
 - (i) all parties to the treaty affected by the decision are also parties to the case before the Court, or
 - (ii) the Government of Pakistan specially agree to jurisdiction; and

provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,

Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA¹

[Translation from the French]

25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

¹ An instrument of ratification was deposited on 14 June 1929. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

PARAGUAY

[Translation from the Spanish]

25 IX 96.

Whereas the Republic of Paraguay signed the Charter of the United Nations on 26 June 1945 in San Francisco and ratified it on 12 October of that year,

Having seen and examined the text of the Statute of the International Court of Justice, principal judicial organ of the United Nations, whose Article 36, paragraph 2, stipulates that States parties to the Statute may declare at any time and without special agreement that they recognize as compulsory the jurisdiction of the Court,

And whereas the National Congress agreed to recognize this by means of Act No. 913 of 7 August 1996,

Therefore:

I hereby accept on behalf of the Government of Paraguay the compulsory jurisdiction of the International Court of Justice, with headquarters at The Hague, reciprocally in relation to other States accepting the same obligation in respect of all disputes as provided for in Article 36, paragraph 2, of the Statute of the Court. The present declaration shall apply only to disputes arising subsequent to the date of this declaration.

In witness whereof I hereby sign this declaration, which is sealed with the national Seal and countersigned by the Minister for Foreign Affairs, Rubén Melgarejo Lanzoni, in the city of Asunción, capital of the Republic of Paraguay, on 17 September 1996.

(Signed) Juan Carlos WASMOSY,
President.

(Signed) Rubén MELGAREJO LANZONI,
Minister for Foreign Affairs.

PERU

[Translation from the Spanish]

7 VII 2003.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Government of Peru recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes, until such time as it may give notice withdrawing this declaration.

This declaration does not apply to any dispute with regard to which the parties have agreed or shall agree to have recourse to arbitration or judicial settlement for a final and binding decision or which has been settled by some other method of peaceful settlement.

The Government of Peru reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to amend or withdraw this declaration or reservations set out herein. Such notification shall take effect on the day on which it is received by the Secretary-General of the United Nations.

This declaration shall apply to countries that have entered reservations or set conditions with respect to it, with the same restrictions as set by such countries in their respective declarations.

Lima, 9 April 2003.

(Signed) Allan Wagner TIZÓN,
Minister for Foreign Affairs,
of the Republic of Peru.

PHILIPPINES¹

18172.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute –

- (a) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or
- (b) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or
- (c) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

¹ This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

- (d) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or
- (e) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines –
 - (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or
 - (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(Signed) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 III 96.

On behalf of the Government of the Republic of Poland I hereby declare that the Republic of Poland withdraws its consent to the compulsory jurisdiction of the International Court of Justice communicated on 25 September 1990¹ in light of Article 36, paragraph 2, of the Statute of the Court. At the same time, I hereby declare that the Republic of Poland shall recognize with the effect as of 25 September 1996, in accordance with the provisions of the aforementioned article, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

- (a) disputes prior to 25 September 1990 or disputes arisen out of facts or situations prior to the same date,
- (b) disputes with regard to the territory and State boundaries,
- (c) disputes with regard to environmental protection,
- (d) disputes with regard to foreign liabilities or debts,
- (e) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than twelve months prior to the filing of the application bringing the dispute before the Court,

¹ *I.C.J. Yearbook 1994-1995*, pp. 109-110.

- (f) disputes in respect whereof the parties have agreed or shall agree to have recourse to other method of peaceful settlement.
- (g) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the Republic of Poland.

The Government of the Republic of Poland reserves its right to withdraw or modify the present Declaration at any time and by means of a notification addressed to the Secretary-General of the United Nations, taking effect after six months from the moment whereof.

25 March 1996.

(Signed) Dariusz ROSATI,
Minister of Foreign Affairs.

PORTUGAL¹

25 II 05.

On behalf of the Portuguese Republic, I declare and give notice that Portugal, continuing to accept the jurisdiction of the International Court of Justice, amends its declaration made on 19 December 1955, replacing its terms by the following:

- (1) Under Article 36, paragraph 2, of the Statute of the International Court of Justice, the Portuguese Republic recognizes the jurisdiction of the Court as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation (and to the extent it accepts it), until such time as notice may be given to terminate the acceptance, in all legal disputes other than:
 - (i) any dispute which Portugal has agreed or shall agree with the other party or parties thereto to settle by some other method of peaceful settlement;
 - (ii) any dispute with any State that has deposited or ratified the acceptance of the Court's compulsory jurisdiction or an amendment thereto so that the dispute became included in its scope less than twelve months prior to the filing of the application bringing the dispute before the Court;
 - (iii) any dispute, unless it refers to territorial titles or rights or to sovereign rights or jurisdiction, arising before 26 April 1974 or concerning situations or facts prior to that date;
 - (iv) any dispute with a party or parties to a treaty regarding which the jurisdiction of the International Court of Justice has, under the applicable rules, been explicitly excluded, irrespective of whether the scope of the dispute refers to the interpretation

¹ This declaration replaced that of 19 December 1955 (*I.C.J. Yearbook 1955-1956*, p. 196).

and application of the treaty provisions or to other sources of international law.

- (2) The Portuguese Republic also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Lisbon, 18 February 2005.

(Signed) Antonio Victor Martins MONTEIRO,
Minister for Foreign Affairs.

SENEGAL¹

[Translation from the French]

2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

¹ This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(Signed) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SERBIA AND MONTENEGRO¹

26 IV 99.

I hereby declare that the Government of the Federal Republic of Yugoslavia recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present Declaration does not apply to disputes relating to questions which, under international law, fall exclusively within the jurisdiction of the Federal Republic of Yugoslavia, as well as to territorial disputes.

The aforesaid obligation is accepted until such time as notice may be given to terminate the acceptance.

New York, 25 April 1999.

(Signed) Vladislav JOVANOVIĆ,
Chargé d'affaires a.i. of
the Permanent Mission of Yugoslavia
to the United Nations.

SLOVAKIA

28 V 2004.

On behalf of the Slovak Republic I have the honour to declare that the Slovak Republic recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute

¹ See footnote 1, p. 96, above.

of the Court over all legal disputes arising after the date of signature of the present declaration with regard to situations or facts subsequent to the same date.

This declaration does not apply to disputes:

- (1) which the parties have agreed to settle by some other method of peaceful settlement;
- (2) in respect of which any other Party to the dispute has accepted the jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or when the declaration recognizing the jurisdiction of the Court on behalf of any other Party to the dispute was deposited less than twelve months prior to the filing of the unilateral application bringing the dispute before the Court;
- (3) with regard to the protection of environment;
- (4) with regard to questions which by international law fall exclusively within the domestic jurisdiction of the Slovak Republic.

The Slovak Republic reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the date of receipt of such notification, to amend or withdraw this declaration.

Done at Bratislava on 11 May 2004.

(Signed) Rudolf SCHUSTER,

President of the Slovak Republic.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to,

amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi Issa,

Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish]

29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

- (a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;
- (b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;
- (c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;
- (d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish

Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(Signed) FRANCISCO FERNÁNDEZ ORDÓÑEZ,

Minister for Foreign Affairs.

SUDAN

2158.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

- (a) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
- (b) any question of international law;
- (c) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

- (i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;
- (iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,

Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

- (A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;
- (B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,

Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

- (a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
- (b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(Signed) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN¹

[Translation from the French]

6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(Signed) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

SWITZERLAND

[Translation from the French]

28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;

¹ This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute¹ and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(Signed) CELIO,

The President of the Confederation.

(Signed) LEIMGRUBER,

The Chancellor of the Confederation.

Togo

[Translation from the French]

25 X 79.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;

¹ Switzerland became a party to the Statute of the Court on 28 July 1948.

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(Signed) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(Signed) Apollo K. KIRONDE.

Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND¹

5 VII 04.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to notify you, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, that the United Kingdom's declaration under paragraph 2 of Article 36 of the Statute of the International Court of Justice dated 1 January 1969 is hereby amended, with immediate effect, so as to read as follows:

1. The Government of the United Kingdom of Great Britain and Northern Ireland accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 1 January 1974, with regard to situations or facts subsequent to the same date, other than:

¹ This declaration replaced that of 1 January 1969 (United Nations, *Treaty Series*, Vol. 654, p. 335).

- (i) any dispute which the United Kingdom has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement;
- (ii) any dispute with the government of any other country which is or has been a Member of the Commonwealth;
- (iii) any dispute in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 5 July 2004.

(Signed) Emyr JONES PARRY.

Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations.

URUGUAY¹

[Translation from the French]

Prior to 28 I 21².

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(Signed) B. FERNANDEZ Y MEDINA.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced

¹ An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Panama, p. 145, above.

² The date on which this declaration (undated) was first published in a League of Nations document.

in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. A number of these clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision; others however refer only in general terms to submission of any dispute to the Court. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada France	II: 545 Vol. 253
1939				
17 Dec.	Bogotá	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia/ Venezuela	II: 896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil Venezuela	II: 195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II: 252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II: 502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg/ Belgium France	I: 402 Vol. 27
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China ¹ / United States	I: 359 Vol. 25

¹ All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

TREATIES

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1946 <i>(cont.)</i>	Place	Title and Clause	Contracting Parties	Treaty Series
11 Dec. ¹	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I: 186 Vol. 12
11 Dec. ¹	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I: 186 Vol. 12
11 Dec. ¹	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I: 186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China ² Philippines	I: 175 Vol. 11
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy Philippines	I: 674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom Burma	I: 904 Vol. 70
12 Nov. ¹	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I: 710 Vol. 46
12 Nov. ¹	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I: 772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France Lebanon	I: 2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States Italy	I: 1040 Vol. 79
30 Apr.	Bogotá	American treaty on pacific settlement	Multilateral	I: 449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India Sweden	I: 543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan India	I: 423 Vol. 28

¹ The date and place given here are those of the signature of the amending protocol.

² See footnote 1, p. 160, above.

1948 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I: 314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I: 302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I: 338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I: 323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I: 315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I: 342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I: 309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I: 317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I: 316 Vol. 20
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/ China ¹	I: 273 Vols. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/ Luxembourg	I: 350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/ Sweden	I: 343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/ Turkey	I: 351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/ United Kingdom	I: 339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/ Portugal	I: 442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I: 1179 Vol. 87
15-29 Nov.	Washington	<i>cf.</i> 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I: 1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I: 428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I: 912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/ Philippines	I: 1062 Vol. 81

¹ See footnote 1, p. 160, above.

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1949 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France-Switzerland	I: 22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I: 2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada-Belgium	I: 782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala-Italy	I: 1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I: 1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands- Lebanon	I: 1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India-Philippines	I: 934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands-Iran	I: 3596 Vol. 254
1950				
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia-Ceylon	I: 789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States- Ireland	I: 2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands- Mexico	I: 1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran-Pakistan	I: 2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I: 342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey-Italy	I: 1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt-France	I: 1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand- Canada	I: 1002 Vol. 77
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece-Philippines	I: 3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union- Mexico	I: 2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom- Norway	I: 1459 Vol. 106

1951	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India France	I: 2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom Norway	I: 4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I: 2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India Netherlands	I: 1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark Iran	I: 3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I: 2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece United States	I: 3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/ United States	I: 2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/ Ethiopia	I: 2785 Vol. 206
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I: 1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands/ Australia	I: 1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Denmark	I: 6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France/ United Kingdom	I: 4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden/ United Kingdom	I: 2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States Israel	I: 226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia Egypt	I: 2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India Philippines	I: 2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan/ Netherlands	I: 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia Pakistan	I: 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I: 2937 Vol. 216
1953				
9 Jan.		Treaty of permanent friendship (Art. VI)	Costa Rica Spain	

1953 <i>cont.</i>	Place	Title and Clause	Contracting Parties	Treaty Series
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I:2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the inter- national right of correction (Art. V)	Multilateral	I:6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, com- merce and navigation (Art. XXIV)	United States Japan	I:2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece United Kingdom	I:2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air ser- vices (Art. 10)	Thailand Philippines	I:2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regu- lating cultivation of poppy plant, production of, inter- national and wholesale trade in, and use of opium (Art. 15)	Multilateral	I:6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establish- ment of a European Organi- zation for Nuclear Research (Art. XI)	Multilateral	I:2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands Ceylon	I:2608 Vol. 193
24 Sep.	Helsinki	Agreement concerning a sup- plement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland Denmark	I:2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain United States	I:2802 Vol. 207
19 Oct.	Venice	Constitution of the Inter- governmental Committee for European Migration (Art. 30)	Multilateral	I:2807 Vol. 207
7 Dec. ¹	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I:2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium Lebanon	I:2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden France	I:3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand Indonesia	I:2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom Mexico	I:4750 Vol. 331

¹ The date and the place given here are those at which the amending protocol was opened for signature.

1954 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I: 8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I: 4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I: 5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I: 5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I: 10416 Vol. 724
23 Oct. ¹	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I: 304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/ Fed. Rep. of Germany	I: 3943 Vol. 773
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma Japan	I: 3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy Brazil	I: 4146 Vol. 284
1 Dec. ²	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I: 11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/ Ecuador	I: 3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/ United Kingdom	I: 2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden France	I: 6150 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States Iran	I: 4132 Vol. 284

¹ The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

² The date and place given here are those of the signature of the revised Convention.

1955	Place	Title and Clause	Contracting Parties	Treaty Series
(cont.)				
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy-Switzerland	I-4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I-5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark-Lebanon	I-3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I-7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands-United States	I-4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I-4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I-5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I-3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom-Fed. Rep. of Germany	I-4748 Vol. 330
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines-Switzerland	I-4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I-3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States-Rep. of Korea	I-4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece-Sweden	I-4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I-4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway-Japan	I-4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt ¹	I-3821 Vol. 265

¹ See Sec. II, p. 123, above.

1957 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	I:4646 Vol. 230
23 June	Kabul	Agreement relating to air ser- vices (Art. XI)	Pakistan Afghanistan	I:4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I:7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan Indonesia	I:4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I:5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air ser- vices (Art. XI)	Norway Pakistan	I:4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air ser- vices (Art. XI)	Sweden Pakistan	I:5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air ser- vices (Art. XI)	Denmark Pakistan	I:4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium Iran	I:5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes ¹	Multilateral	I:6466 Vol. 450
7 June	Karachi	Agreement relating to air ser- vices (Art. XI)	Pakistan Portugal	I:4645 Vol. 320
4 July	Karachi	Agreement relating to air ser- vices (Art. XI)	Belgium Pakistan	I:5569 Vol. 387
21 July	Vienna	Agreement relating to air ser- vices (Art. XI)	Austria Afghanistan	I:9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establish- ment and operation of air ser- vices (Art. 9)	Liberia Netherlands	I:5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands Honduras	I:9234 Vol. 645
16 July	Rome	Agreement relating to air ser- vices (Art. XI)	India Italy	I:6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and com- merce (Art. XXIII)	United States Pakistan	I:5816 Vol. 404
19 Nov.	Rome	Convention placing the Inter- national Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I:5902 Vol. 410

¹ This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

1959 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States France	I: 5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan Fed. Rep. of Germany	I: 6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I: 5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden Liberia	I: 6716 Vol. 464
1960				
13 Feb. ¹	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy Lebanon	I: 3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands Guinea	I: 5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I: 8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium Switzerland	I: 5996 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands Fed. Rep. of Germany	I: 7404 Vol. 509
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands Fed. Rep. of Germany	I: 7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom Austria	I: 7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium Jordan	I: 6959 Vol. 479
9 Dec.	Tokyo	Treaty of amity, commerce and navigation (Art. XIII, para. 2)	Japan Philippines	I: 4703 Vol. 1001
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I: 6193 Vol. 429
14 Dec. ²	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India Australia	I: 552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan Japan	I: 6093 Vol. 423

¹ The date given here is the date of signature of the amending protocol.

² The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961	Place	Title and Clause	Contracting Parties	Treaty Series
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium/ United States	I: 6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium/ United Kingdom	I: 7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland United Kingdom	I: 5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I: 7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States/ Republic of Viet Nam	I: 6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I: 7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom Spain	I: 8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden Guinea	I: 6729 Vol. 468
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland Fed. Rep. of Germany	I: 5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon Liberia	I: 11304 Vol. 794
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands Jordan	I: 6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I: 14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland Liberia	I: 8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I: 7247 Vol. 496
23 Nov. ¹	Rome	Constitution of the International Rice Commission, adopted at Washington 15-29 Nov. 1948, as amended (Art. XI)	Multilateral	I: 1613 Vol. 418
23 Nov. ¹	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15-29 Nov. 1948, as amended (Art. III)	Multilateral	I: 1615 Vol. 418

¹ The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

1962	Place	Title and Clause	Contracting Parties	Treaty Series
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States Luxembourg	I: 6868 Vol. 474
19 Mar.	Evian	<i>cf.</i> 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway Guinea	I: 6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom Denmark	I: 8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway Liberia	I: 6739 Vol. 466
3 July ¹	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I: 7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom Japan	I: 6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I: 7525 Vol. 521
1963				
8 Jan.	Seoul	Consular convention (Art. 16)	United States Republic of Korea	I: 7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relations concerning the compulsory settlement of disputes	Multilateral	I: 8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands Paraguay	I: 8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I: 10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I: 8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I: 11473 Vol. 805

¹ The date and the places given here are those of the exchange of letters.

1963 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
3 Dec. ¹	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I:1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I:7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B. ii)	Pakistan Lebanon	I:8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/ Japan	I:8179 Vol. 561
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India Lebanon	I:11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I:21144 Vol. 1281
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I:8359 Vol. 575
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I:8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I:8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I:8765 Vol. 605
7 July	Taif	Agreement on the partition of the neutral zone (Art. 22)	Saudi Arabia/ Kuwait	II:3054 Vol. 1750
1966				
8 Feb.	Lomé	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	II:9677 Vol. 680
15 Feb.	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I:13899 Vol. 964

¹ The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1966 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I:9464 Vol. 660
1967				
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I:8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I:9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands Philippines	I:12382 Vol. 863
24 May	Kabul	Agreement relating to air ser- vices (Art. IX)	Denmark Afghanistan	I:9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I:15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the estab- lishment of tariffs for sched- uled air services (Art. 4)	Multilateral	I:9971 Vol. 696
14 July ¹	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as re- vised (Art. 28)	Multilateral	I:11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the inter- national convention for the unification of certain rules of law relating to bills of lad- ing, signed at Brussels on 25 August 1925 (Art. 8)	Multilateral	I:23643 Vol. 1412
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I:15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I:16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I:10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I:18232 Vol. 1155
25 July	Boston	International health regula- tions (Art. 106)	Multilateral	I:10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium United States	I:13178 Vol. 924

¹ The date and the place given here are those of the signature of the revised Convention

1969 <i>(cont.)</i>	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I: 16545
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/ Yugoslavia	I: 13441 Vol. 943
1970				
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I: 21051 Vol. 1275
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I: 18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I: 11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I: 12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I: 14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands USSR	I: 12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom Ghana	I: 11467 Vol. 805
24 July ¹	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I: 25986
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I: 13444 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I: 14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I: 14566 Vol. 995

¹ The date and the place given here are those of the signature of the revised Convention.

TREATIES

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1972	Place	Title and Clause	Contracting Parties	Treaty Series
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium Turkey	I: 15142 Vol. 1029
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I: 25699
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I: 13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I: 13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I: 14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I: 16208 Vol. 1065
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay Argentina	I: 21424 Vol. 1295
30 Nov.	New York	International convention on the suppression and punishment of the crime of <i>apartheid</i> (Art. XII)	Multilateral	I: 14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I: 15410 Vol. 1035
1974				
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy Spain	I: 17429 Vol. 1120
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I: 18338 Vol. 1161
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan Saudi Arabia	I: 13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay Argentina	I: 21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I: 14152 Vol. 1976

1977	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece-Italy	I: 21048 Vol. 1275
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I: 19487 Vol. 1208
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I: 19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan-Philippines	I: 20979 Vol. 1272
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1, b)	Multilateral	I: 23432 Vol. 1401
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I: 21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I: 20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I: 22301 Vol. 1329
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador-Honduras	I: 21856 Vol. 1310
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland-Benin	I: 19804 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I: 24841 Vol. 1465
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I: 26164 Vol. 1513
8 Nov.	Geneva	Agreement concerning the establishment of a branch office of the Organization in Madrid (Art. 8, para. 2)	International Labour Organization-Spain	I: 24015 Vol. 1422
10 Dec.	New York	International convention against <i>apartheid</i> in sports (Art. 19)	Multilateral	I: 25822 Vol. 1500

TREATIES

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1986	Place	Title and Clause	Contracting Parties	Treaty Series
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I: 29004 Vol. 1678
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I: 27627 Vol. 1582
1989				
19 Oct.	Berne	Treaty on extradition (Art. 17, para. 2)	Philippines Switzerland	I: 34124 Vol. 1994
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	I: 37789 Vol. 2163
1990				
18 Dec.	New York	International Convention on the protection of the rights of all migrant workers and members of their families (Art. 92, para. 1)	Multilateral	I: 39481 Vol. 2220
1991				
25 Feb.	Espoo	Convention on environmental impact assessment in a transboundary context (Art. 15, para. 2)	Multilateral	I: 34028 Vol. 1989
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
25 Nov.	Berne	Treaty on mutual assistance in criminal matters (Art. 21, para. 3)	Australia Switzerland	I: 31588 Vol. 1856
1992				
17 March	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	I: 33207 Vol. 1936
9 May	New York	United Nations framework convention on climate change (Art. 14, para. 2)	Multilateral	I: 30822 Vol. 1771
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	I: 30619 Vol. 1760

	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
1993				
10 May	Canberra	Convention for the conservation of southern bluefin tuna (Art. 16, para. 2)	Multilateral	I: 31155 Vol. 1819
14 Oct.	Dakar	Agreement on management and co-operation (Art. 9)	Senegal Guinea-Bissau	I: 32434 Vol. 1903
1994				
14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	I: 21623 Vol. 2030
1996				
10 Sep.	New York	Comprehensive nuclear test ban treaty (Art. 6, paras. 2 and 3)	Multilateral	
28 Oct.	New York	Agreement on the establishment of the International Vaccine Institute (Art. 7, paras. 2 and 3)	Multilateral	I: 33836 Vol. 1979
1997				
15 Dec.	New York	International convention for the suppression of terrorist bombings (Art. 20, para. 1)	Multilateral	I: 37517 Vol. 2149
1998				
18 June	Tampere	Convention on the provision of telecommunication resources for disaster mitigation and relief operations (Art. 11, para. 3 (b))	Multilateral	I: 40906 Vol. 2297
24 June	Aarhus	Protocol to the 1979 convention on long-range transboundary air pollution on persistent organic pollutants (Art. 12, para. 2 (a))	Multilateral	I: 21623
24 June	Aarhus	Protocol to the 1979 convention on long-range transboundary air pollution on heavy metals (Art. 11, para. 2 (a))	Multilateral	
25 June	Aarhus	Convention on access to information, public participation in decision-making and access to justice in environmental matters (Art. 16, para. 2 (a))	Multilateral	I: 37770 Vol. 2161
17 July	Rome	Statute of the International Criminal Court	Multilateral	I: 38544 Vol. 2187
10 Sep.	Rotterdam	Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade (Art. 20, para. 2 (b))	Multilateral	I: 39973 Vol. 2244

TREATIES

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1999	Place	Title and Clause	Contracting Parties	Treaty Series
17 June	London	Protocol on water and health to the 1992 convention on the protection and use of transboundary watercourses and international lakes (Art. 20, para. 2 (b))	Multilateral	I:33207
30 Nov.	Göteborg	Protocol to the 1979 convention on long-range transboundary air pollution to abate acidification, eutrophication and ground-level ozone (Art. 11, paras. 2 and 4)	Multilateral	I:21623
9 Dec.	New York	International convention for the suppression of the financing of terrorism (Art. 24, para. 1)	Multilateral	I:38349 Vol. 2178
2000				
12 Dec.	Palermo	Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations convention against transnational organized crime (Art. 20, para. 2)	Multilateral	I:39574
12 Dec.	Palermo	Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime (Art. 15, para. 2)	Multilateral	I:39574
12 Dec.	Palermo	United Nations convention against transnational organized crime (Art. 35, para. 2)	Multilateral	I:39574 Vol. 2225
2001				
22 May	Stockholm	Convention on persistent organic pollutants (Art. 16, para. 2)	Multilateral	I:40214
31 May	New York	Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations convention against transnational organized crime (Art. 16, para. 2)	Multilateral	I:39574

	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
2003				
21 May	Kiev	Protocol on civil liability and compensation for damage caused by the transboundary effects of industrial accidents on transboundary waters to the 1992 convention on the protection and use of transboundary watercourses and international lakes and to the 1992 convention on the transboundary effects of industrial accidents (Art. 26)	Multilateral	
21 May	Kiev	Protocol on pollutant release and transfer registers to the convention on access to information, public participation in decision-making and access to justice in environmental matters (Art. 23)	Multilateral	
31 Oct.	Merida	United Nations convention against corruption (Art. 66, para. 2)	Multilateral	I-42146
2004				
*2 Dec.	New York	United Nations convention on jurisdictional immunities of States and their property (Art. 27, para. 2)	Multilateral	
2005				
*13 Apr.	New York	International convention for the suppression of acts of nuclear terrorism (Art. 23, para. 2)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. SEAT

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 343, below).

II. ADMINISTRATION

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)¹.

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President (chair), the Vice-President and five judges

¹ Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 204-205, below).

who are elected tri-annually (at present Judges Koroma, Vereshchetin, Kooijmans, Al-Khasawneh and Buergenthal).

In 1967 the Court established a Committee on Relations. Its present members are Judges Parra-Aranguren (chair), Rezek, Al-Khasawneh and Owada. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Koroma (chair), Kooijmans, Rezek, Buergenthal and Tomka) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Higgins (chair), Buergenthal, Elaraby, Owada, Simma, Tomka and Abraham.

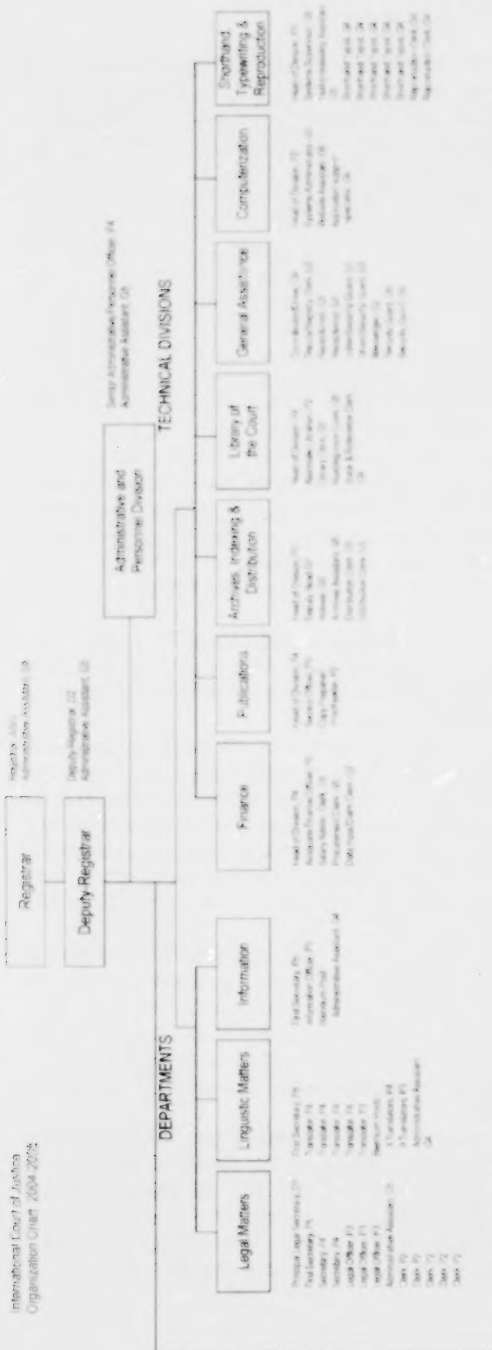
In 1997 the Court established a Committee on Computerization, at present under the chairmanship of the Vice-President and open to all interested Members of the Court.

2. The Registry

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24). In December 1997 the Court accepted virtually all recommendations of a Sub-Committee on Rationalization which it had created to examine the working methods in the Registry and to make proposals for their rationalization and improvement (cf. the Court's response to General Assembly resolution 52/161, reproduced in *I.C.J. Yearbook 1997-1998*, p. 275). Following the inspection on management and administration in the Registry of the Court, made in 1999 by the Joint Inspection Unit, the ensuing report was considered by the General Assembly on 14 June 2001 (cf. General Assembly resolution 55/257). An organization chart of the Registry appears on the page opposite.

(a) The Registrar and the Deputy-Registrar

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).



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Secretaries to Judges

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The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). He is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present, in person or by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, both with international organizations and States and in the fields of information and publications (official publications of the Court, press communiqués, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has recently been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

The present Registrar is Mr. Philippe Couvreur, of Belgian nationality, who was elected on 10 February 2000 for a term of 7 years. Mr. Couvreur, who joined the Court in 1982 as special assistant to the Registrar and the Deputy-Registrar, had risen to the rank of Secretary, then First Secretary, in the Legal Department and had served as Principal Legal Secretary since 1995. He has lectured in public international law at various universities, including the Université Catholique de Louvain, and he is the author of a number of publications on the Court.

On 15 February 1994 the Court elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar for a term of 7 years, as from 19 February 1994. He was re-elected for a term of seven years on 19 February 2001. Mr. Arnaldez, who is of French nationality, was previously Legal Counsel in a Paris international law firm (1977-1982) and Counsel in the International Court of Arbitration of the International Chamber of Commerce (ICC) in Paris (1982-1994).

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980), S. Torres Bernárdez (1980-1986) and E. Valencia-Ospina (1987-2000). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987) and B. Noble (1987-1994).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service staff, however, are appointed by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar. (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 2005.

	<i>Date of assumption of duties</i>	<i>Nationality</i>
<i>Department of Legal Matters</i>		
<i>Principal Legal Secretary</i>		
H. Thirlway	1 March 2003	British
<i>First Secretary</i>		
J.-P. Isselé	5 April 1988	French
<i>Secretaries</i>		
F. Ougougouz	6 February 1995	Algerian
S. Punzhin	1 August 1997	Russian
<i>Legal Officers</i>		
C. Espaliú Berdud	19 June 2000	Spanish
Ms N. Wiles	17 July 2000	British
S. Villalpando	16 September 2002	Argentinian
Ms G. Kothari	1 August 2004	British
<i>Law Clerks</i>		
Ms N. Bayat	15 May 2002	South African
Ms Y. Takashiba	1 June 2002	Japanese
G. Etienne	3 June 2002	French
N. Burniat	1 June 2002	Belgian
<i>Department of Linguistic Matters</i>		
<i>First Secretary</i>		
A. Brouillet	13 June 1988	French
<i>Translators/Interpreters</i>		
T. Johnston	1 September 1998	British
E. Gassama	4 March 2002	Senegalese
P. Hilgert	29 August 2001	French
J. Scharfer	17 April 2000	American and French

Ms A. Lajoie	2 September 2002	Canadian
N. Ramade	1 May 2001	French
Ms N. Apfelbaum-Lubek	5 June 2001	French and Canadian
Ms V. Sorensen Ravnso	21 January 2002	French
Ms M. Vidil	1 July 2001	French
Ms L. Wagner	14 April 2003	French
J. Brannan	26 August 2002	British
D. Ulivi	1 February 2003	French
J.-A. Trine	6 September 2004	French
Ms S. Henry	30 August 2004	French
<i>Department of Information</i>		
<i>First Secretary</i>		
A. Th. Witteveen	15 July 1975	Dutch
<i>Information Officers</i>		
Ms L. Blairon	1 October 1997	Belgian
B. Heim	1 February 2002	French
<i>Publications Division</i>		
S. H. Herd	1 August 1987	British
Head of Division		
Ms F. Bouillé-Chiche	5 August 2002	French
Deputy Head of Division		
A. Baudet	1 November 2000	Swiss
<i>Finance Division</i>		
M. Mendella	1 April 1986	Canadian
Head of Division		
Ms C. Sappore-Siaw	1 January 1999	Gambian
Deputy Head of Division		
C. Uriot	1 March 1981	Dutch
T. Komnenović	1 August 1973	Yugoslav
Ms S. Kablan-Tasan	1 August 2002	Turkish
<i>Administrative/Personnel Division</i>		
E. Andronov	15 October 2002	Russian
Head of Division		
<i>Documents Division/Library of the Court</i>		
Ms J. Rangel	1 January 2003	Brazilian
Librarian, Head of Division		
M. Schiethart	1 January 1981	Dutch
Deputy Head of Division		
Ms C. Fumé	23 July 2002	French
G. Vooijs	1 January 1981	Dutch
Ms A. Barkworth	19 August 2002	Canadian and Dutch

Archives, Indexing and Distribution Division

S. R. S. Bedi Head of Division	16 September 1985	Indian
M. Sow Deputy Head of Division	1 August 1985	Senegalese

Indexing

Ms M. P. Castro Granja	4 June 2000	Spanish
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Distribution

D. Ahanhanzo	1 July 2001	Beninese
B. J. van Veen	1 March 1982	Dutch

Administrative Assistants

Ms A.-M. Curvers	1 September 1996	Belgian
Ms D. Brouillet-Sourisseau	1 January 1990	French
Ms A. Hooft-Dupont	22 September 1997	Belgian
Ms A. Dumoulin	14 May 2001	French
Ms S. Burer	1 June 1999	Dutch
Ms M.-F. Teven	30 January 1995	French
Ms A. Almy	1 February 2005	American

Shorthand, Typewriting and Reproduction Division

Ms C. Blom-Rakoto Head of Division	5 September 1983	French and Malagasy
Ms H. E. Jeffares Deputy Head of Division	1 October 1993	Irish

*Shorthand Typists**French-speaking*

Ms B. Chassang	1 October 1999	French
Ms E. Rabilloud	13 May 2002	French
Ms M. Maniacky	1 September 2002	French
Ms R. Baquedano	6 January 2003	French
Ms B. Dalsbaek	1 April 2004	French
Ms L.-A. Adam	1 November 2004	Canadian
Ms A. Robert	7 July 2005	French
Ms G. Catroux	18 July 2005	French
Ms D. Gibard	11 April 2005	French

English-speaking

Ms L. Tanggahma	14 March 2001	Dutch
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Reproduction

G. D'Oливо	1 December 1982	Italian and Dutch
E. van Heeswijk	17 August 1993	Dutch

Secretaries of Members of the Court

Ms M. Page	1 January 1981	French
Co-ordinator		
Ms W. Ch. Deelder	1 July 1982	Dutch
Ms M. Cleary-Cogan	16 January 1989	British
Ms J. E. van Hamel-Newall	1 November 1985	British
Ms J. Devisme	1 January 1986	French
Ms H. H. Muijen	1 April 1986	Dutch
Ms A. Rowland-Moore	1 January 1989	British
Ms M. Sullivan	1 January 1990	British
Ms Ch. L. Kamers	8 March 1993	Dutch
Ms D. Okandeji	8 September 1997	French
Ms C. Wainwright	1 January 1999	Australian
Ms I. Kieffer	25 June 2001	French
Ms S. van Beek	1 May 2002	American
Ms Y. Hoogenhout	1 September 2002	Australian and Dutch
Ms G. Mould	9 May 2005	British

Computerization Division

G. Auber	1 July 2003	French
Head of Division		
K. Coulibaly	8 April 2004	Ivorian
L. Ber	5 April 2004	Cambodian
Ms J. Blight	1 March 2004	Australian

General Assistance Division

I. J. van der Meer	1 February 1979	Dutch
Co-ordinator		
H. R. I. Castens	1 June 1999	Dutch
Registry Clerk		

Telephone Operators, Receptionists

Ms M. Buan	1 October 1991	Dutch
Ms J. Kamga	24 February 2003	Cameroonian

Security Guards

R. Pijl	1 January 1990	Dutch
J. J. Neüs	1 June 1999	Dutch
P. Kelapanda	1 October 2004	Indian
R. Fischer	1 June 2005	Dutch

Messenger

D. Driessen	1 April 1982	Dutch
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(c) Staff Regulations for the Registry

Article 28, paragraph 4, of the Rules of Court states:

"The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the

United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164), in July 1996, in April 1997 (see *I.C.J. Yearbook 1997-1998*, p. 265), in December 2000 and in September 2002.

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) Privileges and immunities

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. Relations with the Public

(a) Correspondence

Article 26, paragraph 1 (a), of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, Carnegieplein 2, 2517 KJ The*

Hague, Netherlands (telegraphic address: INTERCOURT THE HAGUE; Telefax (+ 3170) 364 99 28; E-mail addresses: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and for documents) and mail@icj-cij.org (other requests and comments). It should be written in either English or French¹.

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court. On 26 January 2004, a new set of stamps designed exclusively for the Court was issued.

The Court's telephone number is (+ 3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 (n)).

(c) *Information*

Article 26, paragraph 1 (k) and (m), of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the First Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court².

In order to increase the availability of Court documents and reduce communication costs, the Court decided to develop a website, which was launched on 25 September 1997 in both English and French. At the time

¹ It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

² These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 299-301.

of preparation of this *Yearbook*, it featured the full text of the Court's Judgments and Orders since 1970 (since 1997, posted on the day they are delivered), and the Advisory Opinions it has given since 1990, summaries of past decisions, most of the relevant documents in pending cases (Application or Special Agreement and written and oral pleadings); unpublished pleadings available in electronic form for cases prior to 1970; all the publications of the Permanent Court of International Justice; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and the biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: <http://www.icj-cij.org>.

In response to the exceptional interest in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* shown by the general public, civil society and the media worldwide, and in view of the Court's very limited seating space for members of the public and journalists at the Peace Palace in The Hague, the Court decided to provide video coverage of its hearings on the Internet. The public hearings were broadcast live and in full on the Court's official website with audio streaming in the Court's two official languages, English and French.

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Releases;

Background Notes, of which five are available:

- II and II bis. Synopsis of cases referred to the International Court of Justice (1947-1969 and 1969-1976);*
- IV. Note by the Registry indicating the Rules of Court amended on 10 May 1972;*
- V. Note by the Registry on the Revised Rules of Court (1978);*
- VI. Collected unofficial summaries of decisions concerning the law of the sea (1946-1986);*
- VII. Note by the Registry indicating the Rules of Court (1978) amended on 5 December 2000.*

Also obtainable, in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, from the Registry or United Nations Information Centres, are:

— a popular booklet entitled "The International Court of Justice. Questions and Answers about the Principal Judicial Organ of the United Nations" (2000), published by the United Nations Department of Public Information on co-operation with the Court. The Arabic, Chinese, Dutch, English, French, Russian and Spanish editions have been published.

– a “handbook”, in French and English, on *The International Court of Justice* (2004), a former edition (1986) of which was published in Arabic, Chinese, English, French, Russian, Spanish and German (German edition out of stock).

– unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others.

Information on the assistance given to members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 193, 195, 197).

III. PRACTICE IN REGARD TO PROCEDURE¹

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

¹ For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; *I.C.J. Yearbook 1992-1993*, pp. 242-248; *I.C.J. Yearbook 1993-1994*, pp. 209-216; *I.C.J. Yearbook 1994-1995*, pp. 199-206; *I.C.J. Yearbook 1995-1996*, pp. 224-240; *I.C.J. Yearbook 1996-1997*, pp. 197-202; *I.C.J. Yearbook 1997-1998*, pp. 249-272; *I.C.J. Yearbook 1998-1999*, pp. 288-309; *I.C.J. Yearbook 1999-2000*, pp. 262-274; *I.C.J. Yearbook 2000-2001*, pp. 299-314; *I.C.J. Yearbook 2001-2002*, pp. 290-301; *I.C.J. Yearbook 2002-2003*, pp. 309-320; *Yearbook 2003-2004*, pp. 305-317; and pp. 269-277 in Chapter VI, below.

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 (*f*)-(i), and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 (*b*), and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969 and 1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 101-104, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a press release informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40; Practice Direction VIII). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14; Practice Direction I).

The party's submissions are set out in each pleading (Rules, Art. 49; Practice Direction II).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52; Practice Directions III and IV) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents (75 of which should be on paper, while 50 may be on CD-ROM);
- an electronic copy of any pleading;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19×26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with.

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 (g)).

The Registrar arranges for the publication of press releases giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see (e) below).

(e) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*¹ (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20; Practice Direction VI).

¹ In the *Corfu Channel (United Kingdom v. Albania)* case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear (Cambodia v. Thailand)* case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)* cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)* heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*. The Court did pay a visit to the site of the hydroelectric dam project at Gabčíkovo-Nagymaros in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*.

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court (Practice Direction IX); such documents must be filed in the same number of copies as the pleadings (see *(b)* above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues press releases giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Members of the diplomatic corps, representatives of the press and any person who comes to the Peace Palace on the occasion of a hearing are welcome to attend. Photographs may be taken for a few minutes at the opening of hearings. Filming for cinema or television purposes is allowed. There is a Press Room within the Peace Palace. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see *(e)* below). These verbatim records are also published daily on the Court's website.

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the Court are

conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see (c) above).

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed: one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial summary of the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 307-322, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 337, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989¹. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chap. III, pp. 93-100, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. Occasional Rules in Contentious Cases

(a) Provisional measures

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)².

¹ Cf. United Nations doc. A/44/PV.43 (1989).

² Such provisional measures have been requested in the following 34 cases: *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Interhandel (Switzerland v. United States of America)*; *Fisheries Jurisdiction (United Kingdom v. Iceland)* (*Federal Republic of Germany v. Iceland*); *Nuclear Tests (Australia v. France)* (*New Zealand v. France*); *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Aegean Sea Continental Shelf (Greece v. Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua v. Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*; *Passage through the Great Belt (Finland v. Denmark)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* (*Libyan Arab Jamahiriya v. United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (in this case two requests were made by Bosnia and Herzegovina and one by Serbia and Montenegro); *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*; *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case*; *Vienna Convention on Consular Relations (Paraguay v. United States of America)*; *LaGrand (Germany v. United States of America)*; in the ten cases concerning *Legality of Use of Force (Serbia and Montenegro v. Belgium)* (*Serbia and Montenegro v. Canada*) (*Serbia and Montenegro v. France*) (*Serbia and Montenegro v. Germany*) (*Serbia and Montenegro v. Italy*) (*Serbia and Montenegro v. Netherlands*) (*Serbia and Montenegro v. Portugal*) (*Yugoslavia v. Spain*) (*Serbia and Montenegro v. United Kingdom*) (*Yugoslavia v. United States of America*); *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*; *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*; *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*; *Avena and Other Mexican Nationals (Mexico v. United States of America)*; and *Certain Criminal Proceedings in France (Republic of the Congo v. France)*.

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order¹.

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 103, above) must be filed as soon as possible, and not later than three months after the delivery of the Memorial (Rules, Art. 79). Notwithstanding that provision the Court, following the submission of the application in a case and after the President has met and consulted with the parties, may decide that any questions of jurisdiction and admissibility shall be determined separately. Where the Court so decides, the parties shall submit any pleadings as to jurisdiction and admissibility within the time-limits fixed by the Court and in the order determined by it. Preliminary objections suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. In accordance with Practice Direction V, this time-limit should generally not exceed four months from the date of the filing of the preliminary objections. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character². The Court may also give effect to

¹ Proceedings were joined in the following cases: *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*; *North Sea Continental Shelf (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands)*.

² The Court gave its decision on the preliminary objections raised in the following 31 cases: *Corfu Channel (United Kingdom v. Albania)*; *Ambatielos (Greece v. United Kingdom)*; *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Nottebohm (Liechtenstein v. Guatemala)*; *Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)*; *Certain Norwegian Loans (France v. Norway)*; *Right of Passage over Indian Territory (Portugal v. India)*; *Interhandel (Switzerland v. United States of America)*; *Aerial Incident of 27 July 1955 (Israel v. Bulgaria)*; *Temple of Preah Vihear (Cambodia v. Thailand)*; *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*; *Northern Cameroons (Cameroon v. United Kingdom)*; *Barcelona Traction, Light and Power Company, Limited (New Application, 1962) (Belgium v. Spain)*; *Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)*; *Certain Phosphate Lands in Nauru (Nauru v. Australia)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*; *Libyan Arab Jamahiriya v. United States of America*; *Oil Platforms (Islamic Republic of Iran v. United States of America)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*; *Aerial Incident of 10 August 1999 (Pakistan v. India)*; *Legality of Use of Force (Serbia and Montenegro v. Belgium)*; *(Serbia and Montenegro v. Canada)*; *(Serbia and Montenegro v. France)*; *(Serbia and Montenegro v. Germany)*; *(Serbia and Montenegro v. Italy)*; *(Serbia and Montenegro v. Netherlands)*; *(Serbia and Montenegro v. Portugal)*; *(Serbia and Montenegro v. United Kingdom)*; and *Certain Property (Liechtenstein v. Germany)*. In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn (*Rights of Nationals of the United States of America in Morocco (France v. United States of America)*)

an agreement between the parties that objections should be heard and determined within the framework of the merits¹.

(d) *Counter-claims*

Counter-claims may be presented if they are directly connected with the subject-matter of the claim of the other party and come within the jurisdiction of the Court. They are to be made by a party in its Counter-Memorial, as part of the submissions. In case of doubt, it is for the Court to decide whether a counter-claim is admissible and shall form part of the proceedings (Rules, Art. 80)².

(e) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)³.

or as the result of a discontinuance (*Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)*; *Barcelona Traction, Light and Power Company, Limited* (first application) (*Belgium v. Spain*); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)*; *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Rwanda)*). The Court also dealt with questions of jurisdiction or admissibility in the following 13 cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)*; *Fisheries Jurisdiction (United Kingdom v. Iceland)* (*Federal Republic of Germany v. Iceland*); *Nuclear Tests (Australia v. France)* (*New Zealand v. France*); *Aegean Sea Continental Shelf (Greece v. Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*; *East Timor (Portugal v. Australia)*; *Fisheries Jurisdiction (Spain v. Canada)*; and *LaGrand (Germany v. United States of America)*. The Court did not deal with questions of jurisdiction or admissibility raised in the case concerning the *Trial of Pakistani Prisoners of War (Pakistan v. India)*.

¹ This was done in the cases concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)* and *East Timor (Portugal v. Australia)*. Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans (France v. Norway)* and by decision of the Court in the following two cases: *Right of Passage over Indian Territory (Portugal v. India)*; *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)*.

² Counter-claims were made by the respondent States, and admitted by the Court, in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*; *Oil Platforms (Islamic Republic of Iran v. United States of America)*; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*; and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*. During the period under review, the Court has placed on record the withdrawal of the counter-claims submitted by the respondent State in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*.

³ Applications for permission to intervene were submitted in the *Nuclear Tests* cases (*Australia v. France*) (*New Zealand v. France*), in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; in the case concerning the *Land, Island and Maritime Frontier Dispute*

If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)¹.

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(f) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)².

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)³.

¹ (*El Salvador Honduras*); in the *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case* (in that case, several States filed a document entitled "Application for Permission to Intervene under Article 62 Declaration of Intervention under Article 63"); in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)* and in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia Malaysia)*.

² A third State intervened in the *Haya de la Torre (Colombia v. Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. (See also footnote 3, p. 200, above.)

³ A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom v. Albania)*; *Assessment of Amount of Compensation: Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Interim Protection: Nottebohm (Liechtenstein v. Guatemala)*; *Preliminary Objection: Fisheries Jurisdiction (United Kingdom v. Iceland)* (*Federal Republic of Germany v. Iceland*); *Interim Protection, Jurisdiction of the Court and Merits: Nuclear Tests (Australia v. France)* (*New Zealand v. France*); *Interim Protection and Second Phase: Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Interim Protection: Aegean Sea Continental Shelf (Greece v. Turkey)*; *Interim Protection and Jurisdiction of the Court: United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*; *Provisional Measures and Merits: Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*; *Merits: Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*; *Jurisdiction and Admissibility*.

⁴ The following 18 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France v. Egypt)*; *Electricité de Beyrouth Company (France v. Lebanon)*; *Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)* (*United Kingdom v. Bulgaria*); *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)*; *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*; *Passage through the Great Belt (Finland v. Denmark)*; *Certain Phosphate Lands in Nauru (Nauru v. Australia)*; *Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)*; *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*; *Vienna Convention on Consular Relations (Paraguay v. United States of America)*; *Armed Activities on the*

(g) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 103-104). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)^{1,2}.

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(h) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)³.

4. *Procedure in Advisory Cases*

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 21-27, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the

Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Rwanda) and Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America). Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

¹ The Court gave a decision on a request for interpretation of its Judgment in the case concerning *Asylum (Colombia/Peru)* and of its Judgment on preliminary objections in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*. See also p. 104, footnotes 1 and 2, above.

² The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and an application for revision submitted by Yugoslavia in connection with its Judgment of 11 July 1996 on preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*.

³ The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)* in the case of that name.

procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 104-106, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)¹.

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

¹ The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

IV. OCCASIONAL FUNCTIONS
ENTRUSTED TO THE PRESIDENT
OF THE INTERNATIONAL COURT OF JUSTICE

*1. International Instruments Providing for Appointment of
Arbitrators, etc.*

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc.

States proposing to insert such a provision in a treaty may consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations.

In such cases, too, the President should be consulted in advance and a draft contract should be submitted to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of

cultural property in the event of armed conflict or, again, Rule 109.1 (a) of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 2004-2005

During the period under review 21 contentious cases were pending, 11 of which remained so at 31 July 2005.

Over this period the Court was seised of one new case: *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*.

The Court held public hearings in the cases concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* and *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*.

The Court rendered judgments on the preliminary objections raised by the respondent Party in each of the cases concerning *Legality of Use of Force (Serbia and Montenegro v. Belgium)*; *(Serbia and Montenegro v. Canada)*; *(Serbia and Montenegro v. France)*; *(Serbia and Montenegro v. Germany)*; *(Serbia and Montenegro v. Italy)*; *(Serbia and Montenegro v. Netherlands)*; *(Serbia and Montenegro v. Portugal)*; *(Serbia and Montenegro v. United Kingdom)*; and *Certain Property (Liechtenstein v. Germany)*.

During the period under review, the Chamber of the Court formed to deal with the case concerning the *Frontier Dispute (Benin Niger)* also held hearings and delivered its Judgment in the case.

In the case concerning the *Frontier Dispute (Benin Niger)*, the Court made an Order placing on record certain changes in the composition of the Chamber formed to deal with that case. It further made Orders fixing time-limits for the filing of pleadings in the cases concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* and *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*.

The President of the Court made Orders extending time-limits for the filing of pleadings in the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)*.

The Court further amended certain provisions of its Rules.

I. CASES BEFORE THE COURT

1. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)

On 20 March 1993, Bosnia and Herzegovina filed an Application instituting proceedings against Serbia and Montenegro (then known as

the Federal Republic of Yugoslavia) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"). As the basis of the jurisdiction of the Court, Bosnia and Herzegovina invoked Article IX of that Convention.

In its Application, Bosnia and Herzegovina, among other claims, requested the Court to adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it had to cease immediately this practice of so-called "ethnic cleansing" and pay reparations.

On 20 March 1993, Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 (*I.C.J. Reports 1993*, p. 3) the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution". The Court limited its provisional measures to requests falling within the jurisdiction conferred on it by the Genocide Convention.

On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures, followed on 10 August 1993 by a request for provisional measures of Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 (*I.C.J. Reports 1993*, p. 325) the Court reaffirmed the measures indicated earlier, adding that they should be immediately and effectively implemented.

On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects".

The Memorial of Bosnia and Herzegovina was filed within the extended time-limit of 15 April 1994.

On 26 June 1995, within the extended time-limit for the deposit of its Counter-Memorial, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application: the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court's Order of 14 July 1995 (*I.C.J. Reports 1995*, p. 279), public hearings were held between 29 April and 3 May 1996. On 11 July 1996 (*I.C.J. Reports 1996*, p. 595), the Court delivered its Judgment, rejecting the objections of Serbia and

Montenegro; finding that, on the basis of Article IX of the Genocide Convention, it had jurisdiction to deal with the case; dismissing the additional basis of jurisdiction invoked by Bosnia and Herzegovina; and finding that the Application was admissible.

In the Counter-Memorial filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina" and that it "ha[d] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that

"the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

After each Party had filed written observations, the Court, by an Order of 17 December 1997 (*I.C.J. Reports 1997*, p. 243), held that Serbia and Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the Parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the Parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In these pleadings, each of the Parties contested the allegations made by the other.

Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

By an Order of 10 September 2001 (*I.C.J. Reports 2001*, p. 572) the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to that withdrawal.

It is recalled that, on 3 February 2003, the Court rendered its Judgment in the case concerning *Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Preliminary Objections (*Yugoslavia v. Bosnia*

and Herzegovina) (*I.C.J. Reports 2003*, p. 7) by which it found that the request for revision was inadmissible.

It is further recalled that, on 4 May 2001, Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) submitted a document to the Court, entitled "Initiative to the Court to reconsider *ex officio* Jurisdiction over Yugoslavia". The submissions presented in that document were, first, that the Court had no jurisdiction *ratione personae* over Serbia and Montenegro, and, secondly, that the Court should "suspend proceedings regarding the merits of the case until a decision on this Initiative", i.e. on the jurisdictional issue, had been rendered. In a letter dated 12 June 2003, the Registrar informed the parties in the case that the Court had decided that it could not effect such a suspension of the proceedings in the circumstances of the case. The Court has fixed 27 February 2006 as the date for the opening of hearings.

2. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

In Article 2 of the Special Agreement:

"(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,

- (a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
- (b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
- (c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the respective time-limits of 2 May 1994, 5 December 1994 and 20 June 1995, as fixed by the Court or its President.

Hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčíkovo-Nagymaros Project, by virtue of Article 66 of the Rules of Court.

In its Judgment of 25 September 1997 (*I.C.J. Reports 1997*, p. 7) the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

Hungary filed a written statement of its position on the request for an additional Judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress made.

3. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)

On 28 December 1998 the Republic of Guinea filed an Application instituting proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for

32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaire Shell, Zaire Mobil and Zaire Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaire and Africacontainers-Zaire.

As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998 and the declaration of the Democratic Republic of the Congo of 8 February 1989.

Guinea filed its Memorial within the time-limit as extended by the Court. On 3 October 2002, within the time-limit as extended for the deposit of its Counter-Memorial, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

By an Order of 7 November 2002 (*I.C.J. Reports* 2002, p. 607), the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

4-11. Legality of Use of Force (Serbia and Montenegro v. Belgium)
(*Serbia and Montenegro v. Canada*) (*Serbia and Montenegro v. France*)
(*Serbia and Montenegro v. Germany*) (*Serbia and Montenegro v. Italy*)
(*Serbia and Montenegro v. Netherlands*) (*Serbia and Montenegro v.*
Portugal) (*Serbia and Montenegro v. United Kingdom*)

On 29 April 1999 Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) filed Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States of America "for violation of the obligation not to use force".

In its Applications, Serbia and Montenegro pointed out that the above-mentioned States had committed "acts . . . by which [they] have violated [their] international obligation[s] banning the use of force against another State, not to intervene in the internal affairs of [that State]" and "not to violate [its] sovereignty"; "[their] obligation[s] to protect the civilian population and civilian objects in wartime [and] to protect the environment"; "[their] obligation[s] relating to free navigation on international rivers"; "[their] obligation[s] regarding fundamental human rights and freedoms"; and "[their] obligation[s] not to use prohibited weapons [and] not to deliberately inflict conditions of life calculated to cause the physical

destruction of a national group". Serbia and Montenegro requested the Court to adjudge and declare *inter alia* that the States referred to above were "responsible for the violation of the above[-mentioned] international obligations" and that they were "obliged to provide compensation for the damage done".

As a basis for the jurisdiction of the Court, Serbia and Montenegro referred, in the Applications against Belgium, Canada, Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Genocide Convention; and, in the Applications against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

On the same day, Serbia and Montenegro also submitted a request for the indication of provisional measures in each of these cases.

After public hearings on the requests for the indication of provisional measures had been held between 10 and 12 May 1999, the Court, on 2 June 1999, delivered eight Orders (*I.C.J. Reports 1999*, pp. 124, 259, 363, 422, 481, 542, 656, 761, 826 and 916), by which, in the cases *Serbia and Montenegro v. Belgium*, *Serbia and Montenegro v. Canada*, *Serbia and Montenegro v. France*, *Serbia and Montenegro v. Germany*, *Serbia and Montenegro v. Italy*, *Serbia and Montenegro v. Netherlands*, *Serbia and Montenegro v. Portugal* and *Serbia and Montenegro v. United Kingdom*, the Court, having found that it had no *prima facie* jurisdiction, rejected the requests for the indication of provisional measures submitted by Serbia and Montenegro and reserved the subsequent procedure for further decision. In the cases of *Yugoslavia v. Spain* and *Yugoslavia v. United States of America*, the Court – having found that it manifestly lacked jurisdiction to entertain Yugoslavia's Application and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice – rejected Yugoslavia's requests for the indication of provisional measures and ordered that those cases be removed from the List.

After the Memorial of Serbia and Montenegro, in each of the eight cases maintained on the Court's List, had been filed within the prescribed time-limit of 5 January 2000, each of the respondent States (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised, on 5 July 2000, within the time-limit for the filing of its Counter-Memorial, certain preliminary objections of lack of jurisdiction and inadmissibility; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

In each of the cases, the Court, by an Order of 8 September 2000 (*I.C.J. Reports 2000*, pp. 149, 152, 155, 158, 161, 164, 167 and 170), fixed 5 April 2001 as the time-limit within which Serbia and Montenegro might present a written statement of its observations and submissions on the preliminary objections raised by the respondent State. At the request of

Serbia and Montenegro, the Court, by Orders of 21 February 2001 (*I.C.J. Reports 2001*, pp. 13, 16, 19, 22, 25, 28, 31 and 34) and 20 March 2002 (*I.C.J. Reports 2002*, pp. 192, 195, 198, 201, 204, 207, 210 and 213), extended that time-limit twice, to 5 April 2002 and 7 April 2003 respectively. In each of the cases, Serbia and Montenegro's written statement on the preliminary objections raised by the respondent State concerned was filed on 20 December 2002, within the time-limit thus extended.

Public hearings on the preliminary objections raised by each of the respondent States were held from 19 to 23 April 2004. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Belgium:

"In the case concerning the *Legality of Use of Force (Serbia and Montenegro v. Belgium)*, for the reasons set out in the Preliminary Objections of Belgium dated 5 July 2000, and also for the reasons set out during the oral submissions on 19 and 22 April 2004, Belgium requests the Court to:

- (a) remove the case brought by Serbia and Montenegro against Belgium from the List;
- (b) in the alternative, to rule that the Court lacks jurisdiction in the case brought by Serbia and Montenegro against Belgium and/or that the case brought by Serbia and Montenegro against Belgium is inadmissible."

For Canada:

"The Government of Canada requests the Court to adjudge and declare that the Court lacks jurisdiction because the Applicant has abandoned all the grounds of jurisdiction originally specified in its Application pursuant to Article 38, paragraph 2, of the Rules and has identified no alternative grounds of jurisdiction.

In the alternative, the Government of Canada requests the Court to adjudge and declare that:

- the Court lacks jurisdiction over the proceedings brought by the Applicant against Canada on 29 April 1999, on the basis of the purported declaration of 25 April 1999;
- the Court also lacks jurisdiction on the basis of Article IX of the Genocide Convention;
- the new claims respecting the period beginning 10 June 1999 are inadmissible because they would transform the subject of the dispute originally brought before the Court; and,
- the claims in their entirety are inadmissible because the subject matter of the case requires the presence of essential third parties that are not before the Court."

For France:

"For the reasons it has set out orally and in its written pleadings, the French Republic requests the International Court of Justice to:

- principally, remove the case from the List;
- in the alternative, to decide that it lacks jurisdiction to rule on the Application filed by the Federal Republic of Yugoslavia against France;
- and, in the further alternative, to decide that the Application is inadmissible."

For Germany:

"Germany requests the Court to dismiss the Application for lack of jurisdiction and, additionally, as being inadmissible on the grounds it has stated in its Preliminary Objections and during its oral pleadings."

For Italy:

"For the reasons set out in its Preliminary Objections and oral statements, the Italian Government submits as follows:

May it please the Court to adjudge and declare,

Principally, that:

- I. No decision is called for on the Application filed in the Registry of the Court on 29 April 1999 by Serbia and Montenegro against the Italian Republic for 'violation of the obligation not to use force', as supplemented by the Memorial filed on 5 January 2000, inasmuch as there is no longer any dispute between Serbia and Montenegro and the Italian Republic or as the subject-matter of the dispute has disappeared.

In the alternative, that:

- II. The Court lacks jurisdiction *ratione personarum* to decide the present case, since Serbia and Montenegro was not a party to the Statute when the Application was filed and also does not consider itself a party to a 'treaty in force' such as would confer jurisdiction on the Court, in accordance with Article 35, paragraph 2, of the Statute;
- III. The Court lacks jurisdiction *ratione materiae* to decide the present case, since Serbia and Montenegro does not regard itself as bound by Article IX of the Genocide Convention, to which it made a reservation upon giving notice of accession in March 2001 and since, in any event, the dispute arising from the terms of the Application instituting proceedings, as supplemented by the Memorial, is not a dispute relating to 'the interpretation,

- application or fulfilment' of the Genocide Convention, as provided in Article IX;
- IV. Serbia and Montenegro's Application, as supplemented by the Memorial, is inadmissible in its entirety, inasmuch as Serbia and Montenegro seeks thereby to obtain from the Court a decision regarding the legality of action undertaken by subjects of international law not present in the proceedings or not *all* so present;
- V. Serbia and Montenegro's Application is inadmissible with respect to the eleventh submission, mentioned for the first time in the Memorial, inasmuch as Serbia and Montenegro seeks thereby to introduce a dispute altogether different from the original dispute deriving from the Application."

For the Netherlands:

"May it please the Court to adjudge and declare that

The Court has no jurisdiction or should decline to exercise jurisdiction as the parties in fact agree that the Court has no jurisdiction or as there is no longer a dispute between the parties on the jurisdiction of the Court

Alternatively,

- Serbia and Montenegro is not entitled to appear before the Court;
- The Court has no jurisdiction over the claims brought against the Netherlands by Serbia and Montenegro; and/or
- The claims brought against the Netherlands by the Serbia and Montenegro are inadmissible."

For Portugal:

"For the reasons given in the oral statements presented on behalf of Portugal during the present hearings and in the Preliminary Objections of 5 July 2000, the final submissions of the Portuguese Republic are as follows:

May it please the Court to adjudge and declare that

- (i) The Court is not called upon to give a decision on the claims of Serbia and Montenegro

Alternatively

- (ii) The Court lacks jurisdiction, either

- (a) under Article 36, paragraph 2, of the Statute;
- (b) under Article IX of the Genocide Convention;

and

The claims are inadmissible."

For the United Kingdom:

"For the reasons given in our written Preliminary Objections and at the oral hearing, the United Kingdom requests the Court:

— to remove the case from its List,

or, in the alternative,

— to adjudge and declare that:

it lacks jurisdiction over the claims brought against the United Kingdom by Serbia and Montenegro

and/or

the claims brought against the United Kingdom by Serbia and Montenegro are inadmissible."

For Serbia and Montenegro:

"For the reasons given in its pleadings and in particular in its Written Observations, subsequent correspondence with the Court and at the oral hearing, Serbia and Montenegro requests the Court

— to adjudge and declare on its jurisdiction *ratione personae* the present cases;

— to dismiss the remaining preliminary objections of the respondent States, and to order proceedings on the merits if it finds it has jurisdiction *ratione personae*."

On 15 December 2004, the Court delivered its Judgment on preliminary objections in each of these cases (*I.C.J. Reports 2004*, pp. 279, 429, 575, 720, 865, 1011, 1160, 1307), a summary of which is given below, followed by the text of the operative paragraph:

History of proceedings and submissions of the Parties

The Court recites the history of the proceedings and the submissions of the Parties in each of the cases.

Dismissal of the case in limine litis

The Court observes that it must first deal with a preliminary question that has been raised in each of the eight cases, namely the contention, presented in various forms by the respondent States, that, as a result of the changed attitude of the Applicant to the question of the Court's jurisdiction as expressed in its Observations, the Court is no longer required to rule on those objections to jurisdiction, but can simply dismiss the cases *in limine litis* and remove them from its List, without enquiring further into matters of jurisdiction.

The Court then examines a number of arguments advanced by different Respondents as possible legal grounds that would lead the Court to

take this course, including, *inter alia*: (i) that the position of Serbia and Montenegro is to be treated as one that in effect results in a discontinuance of the proceedings or that the Court should *ex officio* put an end to the cases in the interests of the proper administration of justice; (ii) that there is agreement between the Parties on a "question of jurisdiction that is determinative of the case[s]", and that as a result there are now no "dispute[s] as to whether the Court has jurisdiction"; (iii) that the substantive disputes under the Genocide Convention have disappeared and thus the whole dispute has disappeared in those cases in which the only ground of jurisdiction relied on is Article IX of that Convention; (iv) that Serbia and Montenegro, by its conduct, has forfeited or renounced its right of action and is now estopped from pursuing the proceedings.

The Court finds itself unable to uphold the various contentions of the Respondents. The Court considers that it is unable to treat the Observations of Serbia and Montenegro as having the legal effect of a discontinuance of the proceedings under Article 88 or 89 of the Rules of Court and finds that the cases do not fall into the category of cases in which it may of its own motion put an end to proceedings in a case. As regards the argument advanced by certain Respondents that the disputes on jurisdiction have disappeared since the Parties now agree that the Applicant was not a party to the Statute at the relevant time, the Court points out that Serbia and Montenegro has not invited the Court to find that it has no jurisdiction; while it is apparently in agreement with the arguments advanced by the Respondents in that regard in their preliminary objections, it has specifically asked in its submissions for a decision of the Court on the jurisdictional question. This question, in the view of the Court, is a legal question independent of the views of the parties upon it. As to the argument concerning the disappearance of the substantive disputes, it is clear that Serbia and Montenegro has by no means withdrawn its claims as to the merits. Indeed, these claims were extensively argued and developed in substance during the hearings on jurisdiction, in the context of the question of the jurisdiction of the Court under Article IX of the Genocide Convention. It is equally clear that these claims are being vigorously denied by the Respondents. It could not even be said under these circumstances that, while the essential dispute still subsists, Serbia and Montenegro is no longer seeking to have its claim determined by the Court. Serbia and Montenegro has not sought a discontinuance and has stated that it "wants the Court to continue the case[s] and to decide upon its jurisdiction – and to decide on the merits as well, if it has jurisdiction". The Court therefore finds itself unable to conclude that Serbia and Montenegro has renounced any of its substantive or procedural rights, or has taken the position that the disputes between the Parties have ceased to exist. As for the argument based on the doctrine of estoppel, the Court does not consider that Serbia and Montenegro, by asking the Court "to decide on its jurisdiction" on the basis of certain alleged "new facts" about its own legal status vis-à-vis

the United Nations, should be held to have forfeited or renounced its right of action and to be estopped from continuing the actions before the Court.

For all these reasons, the Court concludes that it cannot remove the cases concerning *Legality of Use of Force* from the List, or take any decision putting an end to those cases *in limine litis*. In the present phase of the proceedings, it must proceed to examine the question of its jurisdiction to entertain the eight cases.

Serbia and Montenegro's access to the Court under Article 35, paragraph 1, of the Statute

The Court recalls that, in each of the cases, the Application filed on 29 April 1999 stated that

"[t]he Government of the Federal Republic of Yugoslavia invokes Article 36, paragraph 2, of the Statute of the International Court of Justice as well as Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide".

In addition to which, in the cases against France, Germany and Italy, the Applicant invokes "Article 38, paragraph 5, of the Rules of the Court".

With regard to the second ground of jurisdiction in the cases, the Court states that, at the provisional measures stage, it found that

"it is quite clear that, in the absence of consent by [France, Germany and Italy] given pursuant to Article 38, paragraph 5, of the Rules, the Court cannot exercise jurisdiction even *prima facie*" (*I.C.J. Reports 1999 (I)*).

The Court notes that the Parties have not returned to this matter.

In the cases against Belgium and the Netherlands, the Court further states that Serbia and Montenegro claimed as an additional basis of jurisdiction

"Article 4 of the Convention of Conciliation, Judicial Settlement and Arbitration between the Kingdom of Yugoslavia and Belgium, signed at Belgrade on 25 March 1930 and in force since 3 September 1930"

and

"Article 4 of the Treaty of Judicial Settlement, Arbitration and Conciliation between the Kingdom of Yugoslavia and the Netherlands, signed in The Hague on 11 March 1931 and in force since 2 April 1932",

respectively.

With regard to all eight cases concerning *Legality of Use of Force*, the Court notes that in its jurisprudence it has referred to "its freedom to

select the ground upon which it will base its judgment", and that, when its jurisdiction is challenged on diverse grounds, it is free to base its decision on one or more grounds of its own choosing, in particular "the ground which in its judgment is more direct and conclusive". However, in those instances, the Parties to the cases before the Court were, *without doubt*, parties to the Statute of the Court and the Court was thus open to them under Article 35, paragraph 1, of the Statute. The Court points out that this is not the case in the present proceedings, in which an objection has been made regarding the right of the Applicant to have access to the Court. And it is this issue of access to the Court which distinguishes the present cases from those cited in the jurisprudence concerned.

The Court observes that the question whether Serbia and Montenegro was or was not a party to the Statute of the Court at the time of the institution of the present proceedings is fundamental; for if it were not such a party, the Court would not be open to it under Article 35, paragraph 1, of the Statute. In that situation, subject to any application of paragraph 2 of that Article, Serbia and Montenegro could not have properly seised the Court, whatever title of jurisdiction it might have invoked, for the simple reason that it did not have the right to appear before the Court. Hence, the Court must first examine the question whether the Applicant meets the conditions laid down in Articles 34 and 35 of the Statute for access to the Court. Only if the answer to that question is in the affirmative, will the Court have to deal with the issues relating to the conditions laid down in Article 36 of the Statute and in addition in the cases of Belgium and the Netherlands, Article 37.

The Court notes in this respect that there is no doubt that Serbia and Montenegro is a State for the purpose of Article 34, paragraph 1, of the Statute. However, certain Respondents objected that, at the time of the filing of its Applications on 29 April 1999, that State did not meet the conditions set down in Article 35 of the Statute since it was not a member of the United Nations and therefore not a party to the Statute of the Court by virtue of Article 93, paragraph 1, of the Charter of the United Nations. Nor had it, in their opinion, become a party to the Statute pursuant to Article 93, paragraph 2, of the Charter of the United Nations.

The Court then recapitulates the sequence of events relating to the legal position of the Applicant vis-à-vis the United Nations over the period 1992-2000. It refers, *inter alia*, to the following: the break-up of the Socialist Federal Republic of Yugoslavia (SFRY) in 1991-1992; a declaration of 27 April 1992 by the SFRY Assembly, the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro asserting the continuation of the international legal and political personality of the SFRY by the Federal Republic of Yugoslavia (FRY); a note of the same day from Yugoslavia to the United Nations Secretary-General asserting the continuation by the FRY of the membership of the SFRY in the Organization; Security Council resolution 777

of 1992 considering that the FRY could not continue automatically the SFRY's membership; General Assembly resolution 47/1 of 1992 stating that the FRY shall not participate in the work of the General Assembly; and a letter dated 29 September 1992 from the United Nations Legal Counsel regarding the "practical consequences" of General Assembly resolution 47/1.

The Court concludes that the legal situation that obtained within the United Nations during the period 1992-2000 concerning the status of the Federal Republic of Yugoslavia remained ambiguous and open to different assessments. This was due, *inter alia*, to the absence of an authoritative determination by the competent organs of the United Nations defining clearly the legal status of the Federal Republic of Yugoslavia vis-à-vis the United Nations.

The Court notes that three different positions were taken within the United Nations. In the first place, there was the position taken by the two political organs concerned. The Court refers in this respect to Security Council resolution 777 (1992) of 19 September 1992 and to General Assembly resolution 47/1 of 22 September 1992, according to which "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations", and "should apply for membership in the United Nations". The Court points out that, while it is clear from the voting figures that these resolutions reflected a position endorsed by the vast majority of the Members of the United Nations, they cannot be construed as conveying an authoritative determination of the legal status of the Federal Republic of Yugoslavia within, or vis-à-vis, the United Nations. The uncertainty surrounding the question is evidenced, *inter alia*, by the practice of the General Assembly in budgetary matters during the years following the break-up of the Socialist Federal Republic of Yugoslavia.

The Court recalls that, secondly, the Federal Republic of Yugoslavia, for its part, maintained its claim that it continued the legal personality of the Socialist Federal Republic of Yugoslavia, "including its membership in all international organizations and participation in international treaties ratified or acceded to by Yugoslavia". This claim had been clearly stated in the official Note of 27 April 1992 from the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General of the United Nations. It was sustained by the Applicant throughout the period from 1992 to 2000.

Thirdly, another organ that came to be involved in this problem was the Secretariat of the United Nations. In the absence of any authoritative determination, the Secretariat, as the administrative organ of the Organization, simply continued to keep to the practice of the *status quo ante* that had prevailed prior to the break-up of the Socialist Federal Republic of Yugoslavia in 1992.

The Court points out that it was against this background that the Court itself, in its Judgment of 3 February 2003 in the case concerning

Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (*Yugoslavia v. Bosnia and Herzegovina*) (I.C.J. Reports 2003, p. 7) (hereinafter the "*Application for Revision* case"), referred to the "*sui generis* position which the FRY found itself in" during the relevant period; however, in that case, no final and definitive conclusion was drawn by the Court from this descriptive term on the amorphous status of the Federal Republic of Yugoslavia vis-à-vis or within the United Nations during this period.

The Court considers that this situation came to an end with a new development in 2000. On 27 October of that year, the Federal Republic of Yugoslavia requested admission to membership in the United Nations, and on 1 November, by General Assembly resolution 55/12, it was so admitted. Serbia and Montenegro thus has the status of membership in the Organization as from 1 November 2000. However, its admission to the United Nations did not have, and could not have had, the effect of dating back to the time when the SFRY broke up and disappeared. It became clear that the *sui generis* position of the Applicant could not have amounted to its membership in the Organization.

In the view of the Court, the significance of this new development in 2000 is that it has clarified the thus far amorphous legal situation concerning the status of the Federal Republic of Yugoslavia vis-à-vis the United Nations.

The Court finds that from the vantage point from which it now looks at the legal situation, and in light of the legal consequences of the new development since 1 November 2000, it is led to the conclusion that Serbia and Montenegro was not a Member of the United Nations, and in that capacity a State party to the Statute of the International Court of Justice, at the time of filing its Applications.

A further point the Court considers is the relevance to the present cases of the Judgment in the *Application for Revision* case, of 3 February 2003. The Court points out that, given the specific characteristics of the procedure under Article 61 of the Statute, in which the conditions for granting an application for revision of a judgment are strictly circumscribed, there is no reason to treat the Judgment in the *Application for Revision* case as having pronounced upon the issue of the legal status of Serbia and Montenegro vis-à-vis the United Nations. Nor does the Judgment pronounce upon the status of Serbia and Montenegro in relation to the Statute of the Court.

For all these reasons, the Court concludes that, at the time when the proceedings were instituted, the Applicant in the cases, Serbia and Montenegro, was not a Member of the United Nations, and consequently, was not, on that basis, a State party to the Statute of the International Court of Justice. The Applicant not having become a party to the Statute on any other basis, it follows that the Court was not then open to it under Article 35, paragraph 1, of the Statute.

Serbia and Montenegro's possible access to the Court on the basis of Article 35, paragraph 2, of the Statute

The Court then considers whether it might be open to Serbia and Montenegro under paragraph 2 of Article 35, which provides:

"The conditions under which the Court shall be open to other States [i.e. States not parties to the Statute] shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court."

In this regard, it quotes from its Order of 8 April 1993 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (I.C.J. Reports 1993, p. 3) (hereinafter the "*Genocide Convention case*"), where it stated, *inter alia*, that a "compromissory clause in a multilateral convention, such as Article IX of the Genocide Convention relied on by Bosnia and Herzegovina in the present case, *could*, in the view of the Court, be regarded *prima facie* as a special provision contained in a treaty in force" (emphasis added).

The Court recalls that a number of Respondents contended in their pleadings that the reference to "treaties in force" in Article 35, paragraph 2, of the Statute relates only to treaties in force when the Statute of the Court entered into force, i.e. on 24 October 1945. In respect of the Order of 8 April 1993 in the *Genocide Convention case*, the Respondents pointed out that that was a provisional assessment, not conclusive of the matter, and considered that "there [were] persuasive reasons why the Court should revisit the provisional approach it adopted to the interpretation of this clause in the *Genocide Convention case*".

The Court notes that the passage from the 1993 Order in the *Genocide Convention case* was addressed to the situation in which the proceedings were instituted against a State whose membership in the United Nations and status as a party to the Statute was unclear. It observes that the Order of 8 April 1993 was made on the basis of an examination of the relevant law and facts in the context of incidental proceedings on a request for the indication of provisional measures, and concludes that it would therefore now be appropriate for the Court to make a definitive finding on the question whether Article 35, paragraph 2, affords access to the Court in the present case, and for that purpose, to examine further the question of its applicability and interpretation.

The Court thus proceeds to the interpretation of Article 35, paragraph 2, of the Statute, and does so in accordance with customary international law, as reflected in Article 31 of the 1969 Vienna Convention on the Law of Treaties. According to paragraph 1 of Article 31, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of the treaty's object and purpose. Interpretation must be based above all upon the text of

the treaty. As a supplementary measure recourse may be had to means of interpretation such as the preparatory work of the treaty and the circumstances of its conclusion.

The Court points out that the words "treaties in force" in Article 35, paragraph 2, do not, in their natural and ordinary meaning, indicate at what date the treaties contemplated are to be in force, and may thus lend themselves to different interpretations. They may be interpreted as referring either to treaties which were in force at the time that the Statute itself came into force, or to those which were in force on the date of the institution of proceedings in a case in which such treaties are invoked.

The Court observes that the object and purpose of Article 35 of the Statute is to define the conditions of access to the Court. While paragraph 1 of that Article opens it to the States parties to the Statute, paragraph 2 is intended to regulate access to the Court by States which are not parties to the Statute. It would have been inconsistent with the main thrust of the text to make it possible in the future for States not parties to the Statute to obtain access to the Court simply by the conclusion between themselves of a special treaty, multilateral or bilateral, containing a provision to that effect.

The Court moreover notes that the interpretation of Article 35, paragraph 2, whereby that paragraph is to be construed as referring to treaties in force at the time that the Statute came into force is in fact reinforced by an examination of the *travaux préparatoires* of the text; the Court considers that the legislative history of Article 35, paragraph 2, of the Statute of the Permanent Court of International Justice (hereinafter the "Permanent Court") demonstrates that it was intended as an exception to the principle stated in paragraph 1, in order to cover cases contemplated in agreements concluded in the aftermath of the First World War before the Statute entered into force. However, the *travaux préparatoires* of the Statute of the present Court are less illuminating. The discussion of Article 35 was provisional and somewhat cursory; it took place at a stage in the planning of the future international organization when it was not yet settled whether the Permanent Court would be preserved or replaced by a new court. Indeed, the records do not include any discussion which would suggest that Article 35, paragraph 2, of the Statute should be given a different meaning from the corresponding provision in the Statute of the Permanent Court. It would rather seem that the text was reproduced from the Statute of the Permanent Court; there is no indication that any extension of access to the Court was intended.

Accordingly Article 35, paragraph 2, must be interpreted, *mutatis mutandis*, in the same way as the equivalent text in the Statute of the Permanent Court, namely as intended to refer to treaties in force at the date of the entry into force of the new Statute, and providing for the jurisdiction of the new Court. In fact, no such prior treaties, referring to the jurisdiction of the present Court, have been brought to the attention of the Court, and it may be that none exist. In the view of the Court, however, neither this circumstance, nor any consideration of the object

and purpose of the text, nor the *travaux préparatoires*, offer support to the alternative interpretation that the provision was intended as granting access to the Court to States not parties to the Statute without any condition other than the existence of a treaty, containing a clause conferring jurisdiction on the Court, which might be concluded at any time subsequently to the entry into force of the Statute. As previously observed, this interpretation would lead to a result quite incompatible with the object and purpose of Article 35, paragraph 2, namely the regulation of access to the Court by States non-parties to the Statute. In the view of the Court therefore, the reference in Article 35, paragraph 2, of the Statute to "the special provisions contained in treaties in force" applies only to treaties in force at the date of the entry into force of the Statute, and not to any treaties concluded since that date.

The Court thus concludes that, even assuming that Serbia and Montenegro was a party to the Genocide Convention at the relevant date, Article 35, paragraph 2, of the Statute does not provide it with a basis to have access to the Court, under Article IX of that Convention, since the Convention only entered into force on 12 January 1951, after the entry into force of the Statute. The Court does not therefore consider it necessary to decide whether Serbia and Montenegro was or was not a party to the Genocide Convention on 29 April 1999 when the current proceedings were instituted.

Jurisdiction on the basis of Article 4 of the 1930 Convention of Conciliation, Judicial Settlement and Arbitration between the Kingdom of Yugoslavia and Belgium

Jurisdiction on the basis of Article 4 of the 1931 Treaty of Judicial Settlement, Arbitration and Conciliation between the Kingdom of Yugoslavia and the Netherlands

As noted above, by a letter of 12 May 1999, the Agent of Serbia and Montenegro submitted to the Court "Supplement[s] to the Application[s]" against Belgium and the Netherlands. In those Supplements, it invoked as additional grounds of jurisdiction of the Court "Article 4 of the Convention of Conciliation, Judicial Settlement and Arbitration between the Kingdom of Yugoslavia and Belgium" (hereinafter "the 1930 Convention") and "Article 4 of the Treaty of Judicial Settlement, Arbitration and Conciliation between the Kingdom of Yugoslavia and the Netherlands" (hereinafter "the 1931 Treaty"), respectively.

The Court recalls its finding that Serbia and Montenegro was not a party to the Statute at the date of the filing of its Applications instituting proceedings in these cases, and consequently that the Court was not open to it at that time under Article 35, paragraph 1, of the Statute. Therefore, to the extent that Serbia and Montenegro's cases rest on reliance on Article 35, paragraph 1, it is irrelevant whether or not the 1930 Convention or the 1931 Treaty could provide a basis of jurisdiction.

The question nonetheless remains whether the 1930 Convention or the 1931 Treaty which were concluded prior to the entry into force of the Statute, might rank as "treat[ies] in force" for the purposes of Article 35, paragraph 2, of the Statute, and hence provide a basis of access.

In both cases, the Court observes that Article 35 of the Statute of the Court concerns access to the present Court and not to its predecessor, the Permanent Court. The conditions for transfer of jurisdiction from the Permanent Court to the present Court are governed by Article 37 of the Statute. However, this does not signify that a similar substitution is to be read into Article 35, paragraph 2, of the Statute, which relates, not to consensual jurisdiction, but to the conditions of access to the Court. The Court notes that Article 37 of the Statute can be invoked only in cases which are brought before it as between parties to the Statute, i.e. under paragraph 1 of Article 35, and not on the basis of paragraph 2 of that Article. It then adds, as regards jurisdiction, that when a treaty providing for the jurisdiction of the Permanent Court is invoked in conjunction with Article 37, the Court has to satisfy itself, *inter alia*, that both the Applicant and the Respondent were, at the moment when the dispute was submitted to it, parties to the Statute. As the Court observed in the *Barcelona Traction* case,

"three conditions are actually stated in the Article. They are that there should be a treaty or convention in force; that it should provide (i.e., make provision) for the reference of a 'matter' (i.e., the matter in litigation) to the Permanent Court; and that the dispute should be between States both or all of which are parties to the Statute".

Having already determined that Serbia and Montenegro was not a party to the Statute of the Court when the proceedings were instituted against Belgium and the Netherlands, the Court accordingly concludes that Article 37 cannot give Serbia and Montenegro access to the present Court under Article 35, paragraph 2, on the basis of the 1930 Convention or the 1931 Treaty, irrespective of whether or not those instruments were in force on 29 April 1999 at the date of the filing of the Applications.

Unnecessary to consider other preliminary objections

Having found that Serbia and Montenegro did not, at the time of the institution of the proceedings, have access to the Court under either paragraph 1 or paragraph 2 of Article 35 of the Statute, the Court states that it is unnecessary for it to consider the other preliminary objections filed by the Respondents to its jurisdiction.

*

The Court finally recalls that, irrespective of whether it has jurisdiction over a dispute, the parties "remain in all cases responsible for acts attributable to them that violate the rights of other States".

*

Operative paragraph (in each of the eight cases)

"For these reasons,

THE COURT,

Unanimously,

Finds that it has no jurisdiction to entertain the claims made in the Application filed by Serbia and Montenegro on 29 April 1999."

*

In each of the cases, Vice-President Ranjeva and Judges Guillaume, Higgins, Kooijmans, Al-Khasawneh, Buergenthal and Elaraby appended a joint declaration to the Judgment; Judge Koroma appended a declaration; Judges Higgins, Kooijmans, Elaraby and Judge *ad hoc* Kreća appended separate opinions to the Judgment.

12. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)

On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of *armed aggression* perpetrated . . . in flagrant violation of the United Nations Charter and of the Charter of the Organization of African Unity".

In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved *inter alia* violation of the sovereignty and territorial integrity of the Democratic Republic of the Congo, violations of international humanitarian law and massive human rights violations". The Democratic Republic of the Congo sought "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought

"compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it], in respect of which the Democratic Republic of the Congo reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed".

Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare that Uganda was guilty of an act of aggression contrary to Article 2, paragraph 4, of the United Nations Charter; that it was committing repeated violations of the Geneva Convention of 1949 and the Additional Protocols of 1977 and also guilty of massive human rights violations in defiance of the most basic customary law; that more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, Uganda had rendered itself responsible

for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area; and that by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians, Uganda had also violated certain conventions concerning international civil aviation. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Article 36, paragraph 2, of the Statute of the Court).

Taking into account the agreement of the Parties, the Court, by an Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1022), fixed 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Democratic Republic of the Congo was filed within the time-limit thus prescribed.

On 19 June 2000 the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of . . . Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000. At a public sitting held on 1 July 2000, the Court rendered its Order (*I.C.J. Reports 2000*, p. 111), by which it unanimously found that both Parties must,

"forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve";

"forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000";

and

"forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law".

Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 (*I.C.J. Reports 2001*, p. 660), the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Uganda counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time-limit fixed. By an Order of 7 November 2002 (*I.C.J. Reports 2002*, p. 604), the Court extended the time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

By an Order of 29 January 2003 (*I.C.J. Reports 2003*, p. 3) the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

The Court fixed 10 November 2003 as the date for the opening of the hearings.

By a letter dated 5 November 2003, the Democratic Republic of the Congo raised the question whether the hearings might be adjourned to a later date, in April 2004, in order to enable the diplomatic negotiations engaged by the parties to be conducted in an atmosphere of calm. By a letter of 6 November 2003, Uganda indicated that it supported the proposal and adopted the request of the Congo.

By a letter dated 6 November 2003, the Registrar informed the Parties that the Court, acting under Article 54, paragraph 1, of the Rules of Court, and taking account of the representations made to it by the

Parties, had decided that the opening of the oral proceedings would be postponed but had also decided that it was impossible to fix a date in April 2004 for the adjourned hearings. As the Court's judicial calendar until well into 2004 had been adopted some time before, providing for the hearing of, and deliberation on, a number of other cases, a new date for the opening of oral proceedings in this case was fixed subsequently.

Public hearings on the merits of the case were held from 11 to 29 April 2005. At the conclusion of those hearings the Parties presented the following final submissions to the Court.

For the Democratic Republic of the Congo (with respect to its claims):

"The Democratic Republic of the Congo requests the Court to adjudge and declare:

1. That the Republic of Uganda, by engaging in military and paramilitary activities against the Democratic Republic of the Congo, by occupying its territory and by actively extending military, logistic, economic and financial support to irregular forces operating there, and having operated there, has violated the following principles of conventional and customary law:
 - the principle of non-use of force in international relations, including the prohibition of aggression;
 - the obligation to settle international disputes exclusively by peaceful means so as to ensure that international peace and security, as well as justice, are not placed in jeopardy;
 - respect for the sovereignty of States and the rights of peoples to self-determination, and hence to choose their own political and economic system freely and without outside interference;
 - the principle of non-interference in matters within the domestic jurisdiction of States, including refraining from extending any assistance to the parties to a civil war operating on the territory of another State.
2. That the Republic of Uganda, by committing acts of violence against nationals of the Democratic Republic of the Congo, by killing and injuring them or despoiling them of their property, by failing to take adequate measures to prevent violations of human rights in the DRC by persons under its jurisdiction or control, and/or failing to punish persons under its jurisdiction or control having engaged in the above-mentioned acts, has violated the following principles of conventional and customary law:
 - the principle of conventional and customary law imposing an obligation to respect, and ensure respect for, fundamental human rights, including in times of armed conflict, in accordance with international humanitarian law;

- the principle of conventional and customary law imposing an obligation, at all times, to make a distinction in an armed conflict between civilian and military objectives;
 - the right of Congolese nationals to enjoy the most basic rights, both civil and political, as well as economic, social and cultural.
3. That the Republic of Uganda, by engaging in the illegal exploitation of Congolese natural resources, by pillaging its assets and wealth, by failing to take adequate measures to prevent the illegal exploitation of the resources of the DRC by persons under its jurisdiction or control, and/or failing to punish persons under its jurisdiction or control having engaged in the above-mentioned acts, has violated the following principles of conventional and customary law:
- the applicable rules of international humanitarian law;
 - respect for the sovereignty of States, including over their natural resources;
 - the duty to promote the realization of the principle of equality of peoples and of their right of self-determination, and consequently to refrain from exposing peoples to foreign subjugation, domination or exploitation;
 - the principle of non-interference in matters within the domestic jurisdiction of States, including economic matters.
4. (a) That the violations of international law set out in submissions 1, 2 and 3 constitute wrongful acts attributable to Uganda which engage its international responsibility;
- (b) that the Republic of Uganda shall cease forthwith all continuing internationally wrongful acts, and in particular its support for irregular forces operating in the DRC and its exploitation of Congolese wealth and natural resources;
- (c) that the Republic of Uganda shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of;
- (d) that the Republic of Uganda is under an obligation to the Democratic Republic of the Congo to make reparation for all injury caused to the latter by the violation of the obligations imposed by international law and set out in submissions 1, 2 and 3 above;
- (e) that the nature, form and amount of the reparation shall be determined by the Court, failing agreement thereon between the Parties, and that the Court shall reserve the subsequent procedure for that purpose.
5. That the Republic of Uganda has violated the Order of the Court on provisional measures of 1 July 2000, in that it has failed to comply with the following provisional measures:

- (1) both Parties must, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve;
- (2) both Parties must, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000;
- (3) both Parties must, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law."

For the Republic of Uganda (with respect to the claims of the Democratic Republic of the Congo and to its own counter-claims):

"The Republic of Uganda requests the Court:

1. To adjudge and declare in accordance with international law:
 - (A) that the requests of the Democratic Republic of the Congo relating to the activities or situations involving the Republic of Rwanda or her agents are inadmissible for the reasons set forth in Chapter XV of the Counter-Memorial and reaffirmed in the oral pleadings;
 - (B) that the requests of the Democratic Republic of the Congo that the Court adjudge and declare that the Republic of Uganda is responsible for various breaches of international law, as alleged in the Memorial, the Reply and/or the oral pleadings are rejected; and
 - (C) that Uganda's counter-claims presented in Chapter XVIII of the Counter-Memorial, and reaffirmed in Chapter VI of the Rejoinder as well as the oral pleadings be upheld.
2. To reserve the issue of reparation in relation to Uganda's counter-claims for a subsequent stage of the proceedings."

For the Democratic Republic of the Congo (with respect to the counter-claims of Uganda):

"The Congo requests the Court to adjudge and declare:

As regards the *first counter-claim submitted by Uganda*,

1. to the extent that it relates to the period before Laurent-Désiré Kabila came to power, Uganda's claim is inadmissible because

Uganda had previously renounced its right to lodge such a claim; in the alternative, the claim is unfounded because Uganda has failed to establish the facts on which it is based;

2. to the extent that it relates to the period from the time when Laurent-Désiré Kabila came to power to the time when Uganda launched its armed attack, Uganda's claim is unfounded in fact because Uganda has failed to establish the facts on which it is based;
3. to the extent that it relates to the period subsequent to the launching of Uganda's armed attack, Uganda's claim is unfounded both in fact and in law because Uganda has failed to establish the facts on which it is based and, in any event, from 2 August 1998 the DRC was in a situation of self-defence.

As regards the *second counter-claim submitted by Uganda*,

1. to the extent that it now relates to the interpretation and application of the Vienna Convention of 1961 on Diplomatic Relations, the claim submitted by Uganda radically changes the subject-matter of the dispute, contrary to the Statute and to the Rules of Court; that part of the claim must therefore be dismissed from the present proceedings;
2. that part of the claim relating to the alleged mistreatment of certain Ugandan nationals remains inadmissible because Uganda has still failed to show that the requirements laid down by international law for the exercise of its diplomatic protection were satisfied; in the alternative, that part of the claim is unfounded because Uganda is still unable to establish the factual and legal bases of its claims.
3. that part of the claim relating to the alleged expropriation of Uganda's public property is unfounded because Uganda is still unable to establish the factual and legal bases of its claims."

At the time of the preparation of this *Yearbook*, the Court was deliberating its Judgment.

13. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)

On 2 July 1999 the Republic of Croatia filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

In its Application, Croatia contended that

"by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Serbia and Montenegro] is liable for the 'ethnic cleansing'

of Croatian citizens from these areas . . . as well as extensive property destruction – and is required to provide reparation for the resulting damage”.

Croatia went on to state that

“in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Serbia and Montenegro] engaged in conduct amounting to a second round of ‘ethnic cleansing’”.

Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro “has breached its legal obligations” to Croatia under the Genocide Convention and that it

“has an obligation to pay to . . . Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court”.

As a basis for the jurisdiction of the Court, Croatia invoked Article IX of the Genocide Convention, to which, it stated, both Croatia and Serbia and Montenegro are parties.

On 14 March 2001, within the time-limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time-limit for the filing of its Counter-Memorial, Serbia and Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). On 25 April 2003, within the time-limit fixed by the Court’s Order of 14 November 2002 (*I.C.J. Reports 2002*, p. 610), Croatia filed a written statement of its observations and submissions on the preliminary objections raised by Serbia and Montenegro.

14. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

On 8 December 1999 the Republic of Nicaragua filed an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

In its Application, Nicaragua stated *inter alia* that it had for decades “maintained the position that its maritime Caribbean border with Honduras has not been determined”, while Honduras’s position was said to be that

“there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the

land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river”.

According to Nicaragua, “the position adopted by Honduras . . . has brought repeated confrontations and mutual capture of vessels of both nations in and around the general border area”. Nicaragua further stated that “diplomatic negotiations have failed”.

Nicaragua therefore requested the Court

“to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary”.

As a basis for the Court’s jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the “Pact of Bogotá”), signed on 30 April 1948, to which, it stated, both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

By an Order of 21 March 2000 (*I.C.J. Reports 2000*, p. 6), the Court fixed 21 March 2001 and 21 March 2002 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Honduras. Those pleadings were duly filed within the prescribed time-limits.

Copies of the pleadings and documents annexed have been made available to the Governments of Colombia and of Jamaica, at their respective requests.

By an Order of 13 June 2002 (*I.C.J. Reports 2002*, p. 216), the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time-limits for the filing of these pleadings: 13 January 2003 for the Reply, and 13 August 2003 for the Rejoinder. The Reply of Nicaragua and the Rejoinder of Honduras were filed within the time-limit thus fixed.

15. *Certain Property (Liechtenstein v. Germany)*

On 1 June 2001 Liechtenstein filed an Application instituting proceedings against Germany relating to a dispute concerning

“decisions of Germany, in and after 1998, to treat certain property of Liechtenstein nationals as German assets having been ‘seized for the purposes of reparation or restitution, or as a result of the state of war’ – i.e., as a consequence of World War II –, without ensuring any compensation for the loss of that property to its owners, and to the detriment of Liechtenstein itself”.

In its Application, Liechtenstein requested the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requested "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

As a basis for the Court's jurisdiction, Liechtenstein invoked Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

By an Order of 28 June 2001 (*I.C.J. Reports 2001*, p. 565), the Court fixed 28 March 2002 and 27 December 2002, respectively, as the time-limits for the filing of a Memorial by Liechtenstein and of a Counter-Memorial by Germany. The Memorial was filed within the time-limit thus fixed.

On 27 June 2002, Germany filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). Liechtenstein filed a written statement of its observations and submissions with regard to the preliminary objections raised by Germany, within the time-limit of 15 November 2002, as fixed by the President of the Court.

Public hearings on the preliminary objections raised by Germany were held from 14 to 18 June 2004. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Germany:

- "Germany requests the Court to adjudge and declare that:
- it lacks jurisdiction over the claims brought against Germany by the Principality of Liechtenstein, referred to it by the Application of Liechtenstein of 30 May 2001,
- and that
- the claims brought against Germany by the Principality of Liechtenstein are inadmissible to the extent specified in its preliminary objections."

For Liechtenstein:

- "The Principality of Liechtenstein respectfully requests the Court:
- (a) to adjudge and declare that the Court has jurisdiction over the claims presented in its Application and that they are admissible;
- and, accordingly
- (b) to reject the preliminary objections of Germany in their entirety."

On 10 February 2005, the Court delivered its judgment on preliminary objections in the case (*I.C.J. Reports 2005*, p. 6), a summary of which is given below, followed by the text of the operative paragraph:

History of proceedings and submissions of the Parties (paras. 1-12)

The Court begins by reciting the history of the proceedings and the submissions of the Parties as set out hereabove.

Historical background of the case (paras. 13-17)

During the Second World War Czechoslovakia was an allied country and a belligerent in the war against Germany. In 1945, it adopted a series of decrees (the "Beneš Decrees"), among them Decree No. 12 of 21 June 1945, under which certain property owned by Liechtenstein nationals, including Prince Franz Josef II of Liechtenstein, was confiscated.

Following earlier allied enactments concerning a reparations régime in general and German external assets and other property seized in connection with the Second World War in particular, a special régime dealing with the latter subject was created by Chapter Six of the Convention on the Settlement of Matters Arising out of the War and the Occupation, signed by the United States of America, the United Kingdom, France and the Federal Republic of Germany, at Bonn on 26 May 1952 (as amended by Schedule IV to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954) (hereinafter the "Settlement Convention"). This Convention entered into force on 5 May 1955.

Article 3 of Chapter Six of the Settlement Convention reads as follows:

"1. The Federal Republic shall in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of reparation or restitution, or as a result of the state of war, or on the basis of agreements concluded, or to be concluded, by the Three Powers with other Allied countries, neutral countries or former allies of Germany.

.....

3. No claim or action shall be admissible against persons who shall have acquired or transferred title to property on the basis of the measures referred to in paragraph 1 and 2 of this Article, or against international organizations, foreign governments or persons who have acted upon instructions of such organizations or governments."

The régime of the Settlement Convention was intended to be temporary until the problem of reparation was finally settled "by the peace treaty between Germany and its former enemies or by earlier agreements

concerning this matter" (Article 1 of Chapter Six). A final settlement was brought about through the conclusion in 1990 of the Treaty on the Final Settlement with respect to Germany (signed at Moscow on 12 September 1990 and entered into force on 15 March 1991). On 27 and 28 September 1990, an Exchange of Notes was executed between the three Western Powers and the Government of the Federal Republic of Germany (the parties to the Settlement Convention) under which the Settlement Convention would terminate simultaneously with the entry into force of the Treaty. Whereas that Exchange of Notes terminated the Settlement Convention itself, including Article 5 of Chapter Six (relating to compensation by Germany), it provided that paragraphs 1 and 3 of Article 3, Chapter Six, "shall, however, remain in force".

In 1991, a painting by the seventeenth-century Dutch artist Pieter van Laer was lent by a museum in Brno (Czechoslovakia) to a museum in Cologne (Germany) for inclusion in an exhibition. This painting had been the property of the family of the Reigning Prince of Liechtenstein since the eighteenth century; it was confiscated in 1945 by Czechoslovakia under the Beneš Decrees.

A lawsuit filed in his personal capacity by Prince Hans-Adam II of Liechtenstein in the German courts in the 1990s to have the painting returned to him as his property was dismissed on the basis that, under Article 3, Chapter Six, of the Settlement Convention, no claim or action in connection with measures taken against German external assets in the aftermath of the Second World War was admissible in German courts (hereinafter the "*Pieter van Laer Painting*" case).

A claim relating to the decisions of the German courts brought by Prince Hans-Adam II of Liechtenstein before the European Court of Human Rights was dismissed in July 2001.

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The Court begins its reasoning by recalling that in the present proceedings, Liechtenstein based the Court's jurisdiction on Article 1 of the European Convention for the Peaceful Settlement of Disputes which provides that:

"The High Contracting Parties shall submit to the judgment of the International Court of Justice all international legal disputes which may arise between them including, in particular, those concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation."

Article 27 (a) of that Convention reads as follows:

"The provisions of this Convention shall not apply to:

- (a) disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute."

Germany raised six preliminary objections to the jurisdiction of the Court and the admissibility of the Application.

Germany's first preliminary objection (paras. 20-27)

The Court recalls that Germany, in its first preliminary objection, argues that there is no dispute between the Parties. Germany in particular observes that even though the facts that are at the core of the dispute lie in Czechoslovakia's seizure of certain Liechtenstein property under the Beneš Decrees of 1945, Liechtenstein bases its claims before the Court on an alleged "change of position" by Germany in the 1990s as to the need to apply the Settlement Convention to that property, whilst Germany contends that such a change has never occurred. Germany maintains that a distinction is to be made between the issue of the lawfulness of the Czechoslovak expropriations and that of the jurisdiction of the German courts regarding this matter. Germany contends that on neither issue has it changed its position either before or after 1995: as to the first, it has never accepted the validity of the relevant Czechoslovak measures against Liechtenstein property; as to the second, the German courts have always held that they are barred by the Settlement Convention from adjudicating on the lawfulness of confiscation measures, and for the purposes of the application of Article 3 of Chapter Six of the Settlement Convention, they have always relied on the assessment of the expropriating State. Germany further claims that it is not German acts related to Czechoslovak confiscations but the lawfulness of the Czechoslovak measures as such and the resulting obligations of compensation on the part of the successor States to the former Czechoslovakia that are in question. Germany therefore concludes that the only dispute which exists is one between Liechtenstein and the successor States of the former Czechoslovakia.

Liechtenstein maintains that its dispute with Germany concerns Germany's position, whereby for the first time in 1995 it began to treat Liechtenstein assets as German external assets for purposes of the Settlement Convention, thus infringing Liechtenstein's neutrality and sovereignty. Liechtenstein recognizes the existence of another dispute, one between itself and the Czech Republic, but observes that this does not negate the existence of a separate dispute between itself and Germany, based on Germany's unlawful conduct in relation to Liechtenstein. Liechtenstein contends further that Germany itself acknowledged the existence of the dispute between them both in the course of bilateral consultations held in July 1998 and June 1999, and in

a letter from the German Minister for Foreign Affairs to his Liechtenstein counterpart dated 20 January 2000.

Germany for its part denies that it acknowledged the existence of a dispute by participating in diplomatic consultations at the request of Liechtenstein. It argues that a discussion of divergent legal opinions should not be considered as evidence of the existence of a dispute in the sense of the Court's Statute "before it reaches a certain threshold".

In examining Germany's first preliminary objection the Court refers to its own consistent jurisprudence and that of the Permanent Court of International Justice, according to which a dispute is a disagreement on a point of law or fact, a conflict of legal views or interests between parties. It goes on to observe that, moreover, for the purposes of verifying the existence of a legal dispute, it falls to the Court to determine whether "the claim of one party is positively opposed by the other".

The Court finds that in the present proceedings complaints of fact and law formulated by Liechtenstein against Germany are denied by the latter, and concludes that "[b]y virtue of this denial, there is a legal dispute" between Liechtenstein and Germany. The Court further notes that Germany's position taken in the course of bilateral consultations and in the letter by the Minister for Foreign Affairs of 20 January 2000 has evidentiary value in support of the proposition that Liechtenstein's claims were positively opposed by Germany and that this was recognized by the latter.

Turning to the determination of the subject-matter of the dispute, the Court, upon examination of the case file, finds that the subject-matter of the dispute is whether, by applying Article 3, Chapter Six, of the Settlement Convention to Liechtenstein property that had been confiscated in Czechoslovakia under the Beneš Decrees in 1945, Germany was in breach of the international obligations it owed to Liechtenstein and, if so, what is Germany's international responsibility.

Having thus established the existence of a dispute between Liechtenstein and Germany and identified its subject-matter, the Court concludes that the first preliminary objection of Germany must be dismissed.

Germany's second preliminary objection (paras. 28-52)

The Court then examines Germany's second preliminary objection that Liechtenstein's Application should be rejected on the grounds that the Court lacks jurisdiction *ratione temporis* to decide the present dispute.

Germany asserts that were the Court to find that there exists a dispute, it would nevertheless fall outside the jurisdiction of the Court by virtue of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes. In its view, such a dispute would relate to facts or situations prior to 18 February 1980, the date when the European Convention for the Peaceful Settlement of Disputes entered into force as between

Germany and Liechtenstein. In Germany's view, the Application should therefore be rejected.

Germany claims that the property of Prince Franz Joseph II of Liechtenstein, including the painting by Pieter van Laer, as well as property belonging to other Liechtenstein nationals, was seized in Czechoslovakia pursuant to the Beneš Decrees; and that the Settlement Convention required Germany to bar any action in its courts that sought to challenge the legality of such confiscations. In Germany's view, the lawsuit brought by Prince Hans-Adam II of Liechtenstein before the German courts to recover the Pieter van Laer painting was governed by the provisions of the Settlement Convention. The dismissal of the lawsuit by various German courts, beginning with the decision of the Cologne Regional Court in 1995, acting in compliance with the provisions of that Convention, was in conformity with earlier decisions of German courts. According to Germany, its courts have consistently held that they lacked jurisdiction to evaluate the lawfulness of such confiscations. In Germany's view the dispute which arose in the 1990s with regard to the Pieter van Laer painting was directly related to the Settlement Convention and the Beneš Decrees; it had its real source in facts and situations existing prior to the 1980 critical date.

The Court observes that Liechtenstein contends that until the decisions of the German courts in the *Pieter van Laer Painting* case, it was understood between Germany and Liechtenstein that Liechtenstein property confiscated pursuant to the Beneš Decrees could not be deemed to have been covered by the Settlement Convention because of Liechtenstein's neutrality. German courts would therefore not be barred by that Convention from passing on the lawfulness of these confiscations. In Liechtenstein's view, the decisions of the German courts in the 1990s with regard to the painting made clear that Germany no longer adhered to that shared view, and thus amounted to a change of position. Liechtenstein maintains, *inter alia*, that, in so far as there was a change of position by Germany, the decisions of the German courts in the *Pieter van Laer Painting* case and the "positions taken by the German Government, in the period after 1995" gave rise to the present dispute. The facts that triggered the present dispute were therefore not the Settlement Convention or the Beneš Decrees, but Germany's decision in 1995 to apply the Settlement Convention to Liechtenstein property.

The Court notes that in support of their arguments on the subject of the legal test for temporal jurisdiction, both Liechtenstein and Germany refer to the jurisprudence of the Permanent Court of International Justice (the *Phosphates in Morocco* case and the *Electricity Company of Sofia and Bulgaria* case) and of this Court (*Right of Passage* case).

The Court observes that Germany's second preliminary objection requires it to decide whether, applying the provisions of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes, the present dispute relates to facts or situations that arose before or after the 1980 critical date.

The Court finds that the text of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes does not differ in substance from the temporal jurisdiction limitations dealt with in the *Phosphates in Morocco* case, the *Electricity Company of Sofia and Bulgaria* case and the *Right of Passage* case. In particular, no consequence can be drawn from the use of the expressions "with regard to" or "relating to" which have been employed indifferently in the various texts in question. The Court notes further that in those cases the Permanent Court of International Justice and this Court were called upon to interpret unilateral declarations accepting the Court's jurisdiction under its Statute, whereas, in the present case, the Court has to interpret a multilateral Convention. Without pronouncing in any more general sense upon the extent to which such instruments are to be treated comparably, the Court finds no reason on this ground to interpret differently the phrase in issue. Nor, it observes, have the Parties suggested otherwise. The Court accordingly finds its previous jurisprudence on temporal limitations of relevance in the present case.

The Court considers that, in so far as it has to determine the facts or situations to which this dispute relates, the test in the above-mentioned jurisprudence for establishing the jurisdiction of the Court *ratione temporis*, which consists of finding the source or real cause of the dispute, is equally applicable to this case.

The Court points out that it is not contested that the present dispute was triggered by the decisions of the German courts in the *Pieter van Laer Painting* case. This conclusion does not, however, dispose of the question the Court is called upon to decide, for under Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes, the critical issue is not the date when the dispute arose, but the date of the facts or situations in relation to which the dispute arose.

In the Court's view, the present dispute could only relate to the events that transpired in the 1990s if, as argued by Liechtenstein, in this period, Germany either departed from a previous common position that the Settlement Convention did not apply to Liechtenstein property, or if German courts, by applying their earlier case law under the Settlement Convention for the first time to Liechtenstein property, applied that Convention "to a new situation" after the critical date.

With regard to the first alternative, the Court finds that it has no basis for concluding that prior to the decisions of the German courts in the *Pieter van Laer Painting* case, there existed a common understanding or agreement between Liechtenstein and Germany that the Settlement Convention did not apply to the Liechtenstein property seized abroad as "German external assets" for the purpose of reparation or as a result of the war. The issue whether or not the Settlement Convention applied to Liechtenstein property had not previously arisen before German courts, nor had it been dealt with prior thereto in intergovernmental talks between Germany and Liechtenstein. The Court observes, moreover, that German courts have consistently held that the Settlement Convention

deprived them of jurisdiction to address the legality of any confiscation of property treated as German property by the confiscating State. In the *Pieter van Laer Painting* case, the German courts confined themselves to stating that the Settlement Convention was applicable in cases of confiscation under Decree No. 12, as with the other Beneš Decrees, and that, consequently, the Convention was also applicable to the confiscation of the painting. In the view of the Court, Liechtenstein's contention regarding the existence of a prior agreement or common understanding and an alleged "change of position" by Germany cannot therefore be upheld.

As to Liechtenstein's contention that the dispute relates to the application, for the first time, of pre-1990 German jurisprudence to Liechtenstein property in the 1990s, the Court points out that German courts did not face any "new situation" when dealing for the first time with a case concerning the confiscation of Liechtenstein property as a result of the Second World War. The Court finds that this case, like previous ones on the confiscation of German external assets, was inextricably linked to the Settlement Convention. It further finds that the decisions of the German courts in the *Pieter van Laer Painting* case cannot be separated from the Settlement Convention and the Beneš Decrees, and that these decisions cannot consequently be considered as the source or real cause of the dispute between Liechtenstein and Germany.

The Court concludes therefore that, while the decisions of the German courts triggered the dispute between Liechtenstein and Germany, the source or real cause of the dispute is to be found in the Settlement Convention and the Beneš Decrees. In light of the provisions of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes, Germany's second preliminary objection must therefore be upheld.

Having dismissed the first preliminary objection of Germany, but upheld its second, the Court finds that it is not required to consider Germany's other objections and that it cannot rule on Liechtenstein's claims on the merits.

*

Operative paragraph (para. 54)

"For these reasons,

THE COURT,

(1) (a) by fifteen votes to one,

Rejects the preliminary objection that there is no dispute between Liechtenstein and Germany;

IN FAVOUR: *President Shi; Vice-President Ranjeva; Judges Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek,*

Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge ad hoc* Sir Franklin Berman;

AGAINST: *Judge ad hoc* Fleischhauer;

(b) by twelve votes to four,

Upholds the preliminary objection that Liechtenstein's Application should be rejected on the grounds that the Court lacks jurisdiction *ratione temporis* to decide the dispute;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Tomka; *Judge ad hoc* Fleischhauer;

AGAINST: *Judges* Kooijmans, Elaraby, Owada; *Judge ad hoc* Sir Franklin Berman;

(2) by twelve votes to four,

Finds that it has no jurisdiction to entertain the Application filed by Liechtenstein on 1 June 2001.

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Tomka; *Judge ad hoc* Fleischhauer;

AGAINST: *Judges* Kooijmans, Elaraby, Owada; *Judge ad hoc* Sir Franklin Berman."

*

Judges Kooijmans, Elaraby and Owada appended dissenting opinions to the Judgment of the Court; *Judge ad hoc* Fleischhauer appended a declaration; *Judge ad hoc* Sir Franklin Berman appended a dissenting opinion.

16. Territorial and Maritime Dispute (*Nicaragua v. Colombia*)

On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

In its Application, Nicaragua requested the Court to adjudge and declare:

"First, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);

Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

Nicaragua further indicated that it

“reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title”.

It also “reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua”.

As a basis for the Court’s jurisdiction, Nicaragua invoked Article 36, paragraph 2, of the Statute of the Court and Article XXXI of the American Treaty on Pacific Settlement (officially known as the “Pact of Bogotá”), signed on 30 April 1948, to which both Nicaragua and Colombia are parties.

Copies of the pleadings and documents annexed have been made available to the Government of Honduras, at its request.

By an Order of 26 February 2002 (*I.C.J. Reports 2002*, p. 189), the Court fixed 28 April 2003 and 28 June 2004 as the time-limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

On 21 July 2003, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia, within the time-limit of 26 January 2004, fixed by the Court in its Order of 24 September 2003 (*I.C.J. Reports 2003*, p. 158).

17. Frontier Dispute (Benin/Niger)

On 3 May 2002 Benin and Niger jointly notified the Court of a Special Agreement, which was signed between them on 15 June 2001 in Cotonou and entered into force on 11 April 2002.

Under Article 1 of that Special Agreement, the Parties agreed to submit their boundary dispute to a Chamber to be formed by the Court; they also agreed that pursuant to Article 26, paragraph 2, of the Statute of the Court, and that each of them would choose a judge *ad hoc*.

Article 2 of the Special Agreement stated the subject-matter of the dispute in the following terms:

“The Court is requested to:

- (a) determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector;
- (b) specify which State owns each of the islands in the said river, and in particular Lété Island;
- (c) determine the course of the boundary between the two States the River Mekrou sector.”

Finally, Article 10 contained a "special undertaking" as follows: "Pending the judgment of the Chamber, the Parties undertake to preserve peace, security and quiet among the peoples of the two States."

By an Order of 27 November 2002 (*I.C.J. Reports 2002*, p. 613), the Court, after its President had been informed of the view of the Parties on the composition of the chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges *ad hoc* chosen by the Parties, as follows: President Guillaume, Judges Ranjeva and Kooijmans, and Judges *ad hoc* Bedjaoui (chosen by Niger) and Bennouna (chosen by Benin).

The Court further fixed 27 August 2003 as the time-limit for the filing of a Memorial by each Party. Those Memorials were filed within the time-limit thus fixed.

In an Order of 11 September 2003 (*I.C.J. Reports 2003*, p. 155) the President of the Chamber fixed 28 May 2004 as the time-limit for the filing of a Counter-Memorial by each of the Parties. Those Counter-Memorials were filed within the time-limit thus fixed.

On Thursday 20 November 2003 the Chamber held its first public sitting, the aim of which was to enable the two judges *ad hoc* to make the solemn declaration required by the Statute and the Rules of Court.

By an Order of 9 July 2004 (*I.C.J. Reports 2004*, p. 133), the President of the Chamber, taking into account the wish of the parties to be authorized to submit a third pleading as provided for by the Special Agreement, authorized the submission of a Reply by each of the Parties and fixed 17 December 2004 as the time-limit for the filing of that pleading.

Those Replies were deposited within the time-limit thus prescribed.

By an Order of 16 February 2005 (*I.C.J. Reports 2005*, p. 84), the Court declared that on 16 February 2005 Judge Ronny Abraham had been elected a member of the Chamber to fill the vacancy left by the resignation from the Court of Judge Guillaume, former President of that Chamber. Also as a result of that resignation, the Vice-President of the Court, Judge Raymond Ranjeva, had become the new President of the Chamber, which consequently was composed as follows: Judges Ranjeva (*President*), Kooijmans, Abraham; Judges *ad hoc* Bedjaoui, Bennouna.

Public hearings were held by the Chamber from 7 to 11 March 2005. At the conclusion of those hearings the Parties presented the following final submissions to the Chamber :

For Benin:

"For the reasons set out in its written and oral pleadings, the Republic of Benin requests the Chamber of the International Court of Justice to decide:

- (1) that the boundary between the Republic of Benin and the Republic of Niger takes the following course:
 - from the point having co-ordinates 11° 54' 15" latitude North and 02° 25' 10" longitude East, it follows the median line of the River Mekrou as far as the point having co-ordinates 12° 24' 29" latitude North and 02° 49' 38" longitude East;
 - from that point, the boundary follows the left bank of the River [Niger] as far as the point having co-ordinates 11° 41' 44" North and 03° 36' 44" East;
- (2) that sovereignty over all of the islands in the River [Niger], and in particular Lété Island, lies with the Republic of Benin."

For Niger:

"The Republic of Niger requests the Court to adjudge and declare that:

- (1) The boundary between the Republic of Benin and the Republic of Niger, from latitude 12° 24' 27" North, longitude 2° 49' 36" East, as far as latitude 11° 41' 40.7" North, longitude 3° 36' 44" East, follows the line of deepest soundings in the River Niger, insofar as that line can be established as it was at the date of independence.
- (2) That line determines which islands belong to each Party.
 - The islands between the line of deepest soundings and the right bank of the river, namely Pekinga, Tondi Kwaria Barou, Koki Barou, Sandi Tounga Barou, Gandégabi Barou Kaïna, Dan Koré Guirawa, Barou Elhadji Dan Djoda, Koundou Barou and Elhadji Chaïbou Barou Kaïna, belong to the Republic of Benin.
 - The islands located between the line of deepest soundings and the left bank of the river, namely Boumba Barou Béri, Boumba Barou Kaïna, Kouassi Barou, Sansan Goungou, Lété Goungou, Monboye Tounga Barou, Sini Goungou, Lama Barou, Kotcha Barou, Gagno Goungou, Kata Goungou, Gandégabi Barou Béri, Guirawa Barou, Elhadji Chaïbou Barou Béri, Goussou Barou, Beyo Barou and Dole Barou, belong to the Republic of Niger.
- (3) The attribution of islands to the Republic of Benin and the Republic of Niger according to the line of deepest soundings as determined at the date of independence shall be regarded as final.
- (4) With regard to the Gaya-Malanville bridges, the boundary passes through the middle of each of those structures.
- (5) The boundary between the Republic of Benin and the Republic of Niger in the River Mekrou sector follows a line comprising two parts:
 - the first part is a straight line joining the point of confluence

of the River Mekrou with the River Niger to the point where the Paris meridian meets the Atacora mountain range, indicative co-ordinates of which are as follows: latitude: 11° 41' 50" North; longitude: 2° 20' 14" East;

the second part of the line joins this latter point to the point where the former boundary between the cercles of Say and Fada meets the former boundary between the cercles of Fada and Atacora, indicative co-ordinates of which are as follows: latitude: 11° 44' 37" North; longitude: 2° 18' 55" East."

On 12 July 2005, the Chamber delivered its judgment in the case (*I.C.J. Reports 2005*, p. 90), a summary of which is given below, followed by the text of the operative paragraph:

History of proceedings and submissions of the Parties (paras. 1-16)

The Chamber begins by reciting the history of the proceedings and the submissions of the Parties as set out hereabove.

Geographical context and historical background of the dispute (paras. 17-22)

The Chamber notes that Article 2 of the Special Agreement divides the disputed boundary into two sectors, the River Mekrou sector in the west and the River Niger sector in the east. The Chamber then briefly describes each of these sectors.

The western part of the boundary follows a course running approximately south-west to north-east from a point marking the boundary between the two States and Burkina Faso as far as the confluence of the River Mekrou and the River Niger.

The eastern part of the boundary follows the River Niger in a southeasterly direction over a distance of some 150 km from that confluence and ends at a point marking the boundary of the two States with Nigeria. There are several islands within the stretch concerned; their exact number and their attribution to either Party are matters of dispute in the present case. The island of Lété, referred to expressly in Article 2 (b) of the Special Agreement, is the largest, covering approximately 40 sq km. The island is fertile, with rich pastures, and is permanently inhabited; according to information supplied by Niger, its population numbered some 2,000 in the year 2000.

The frontier dispute between the Parties is set within a historical context marked by the accession to independence of the territories that were formerly part of French West Africa (*'Afrique occidentale française'*, hereinafter "AOF"). Benin, which has been independent since 1 August 1960, corresponds to the former colony of Dahomey, and Niger, which has been independent since 3 August 1960, corresponds to a territory which underwent various administrative transformations during the colonial period.

Both Parties referred to incidents that occurred on the island of Lété on the eve of their independence, in 1959 and 1960. The two States subsequently set up a process for the friendly settlement of their frontier dispute: in 1961 and 1963 two Dahomey-Niger joint commissions met to discuss the matter. In October 1963 the crisis between Dahomey and Niger regarding the island of Lété deepened and each State subsequently published a White Paper setting out, *inter alia*, their positions regarding the frontier dispute. There were fresh attempts to reach a peaceful settlement in the years that followed. However, the issue of sovereignty over the island of Lété was not resolved and there were further incidents in subsequent years, notably in 1993 and 1998. On 8 April 1994 Benin and Niger entered into an agreement creating a joint commission for the delimitation of their common border. Since efforts to arrive at a negotiated solution to the dispute were unsuccessful, the commission proposed that the Governments of the two States bring the dispute before the International Court of Justice by Special Agreement.

Applicable law and principle of uti possidetis juris (paras. 23-31)

The Chamber notes that, under Article 6 of the Special Agreement ("Applicable Law"), the rules and principles of international law applicable to the present dispute include "the principle of State succession to the boundaries inherited from colonization, that is to say, the intangibility of those boundaries". The Chamber observes that it follows from the wording of this provision and from the arguments of the Parties that they are in agreement on the relevance of the principle of *uti possidetis juris* for the purposes of determining their common border. It recalls that the Chamber formed in the case concerning the *Frontier Dispute (Burkina Faso Republic of Mali)* had occasion to state that, according to the principle in question, "pre-eminence [is] accorded to legal title over effective possession as a basis of sovereignty" and that its essence lies "in its primary aim of securing respect for the territorial boundaries at the moment when independence is achieved", including former administrative delimitations established during the colonial period that became international frontiers (*Frontier Dispute (Burkina Faso Republic of Mali)*, Judgment, I.C.J. Reports 1986, pp. 586-587, para. 63, and p. 566, para. 23).

The Chamber concludes that on the basis of the principle of *uti possidetis juris*, it must seek to determine, in the case before it, the boundary that was inherited from the French administration. The Parties agree that the dates to be taken into account for this purpose are those of their respective independence, namely 1 and 3 August 1960. The Chamber observes that there was no change in the frontier between these two very close dates.

In response to differing opinions expressed by the Parties regarding certain aspects of the application of the *uti possidetis juris* principle in the present case, the Chamber firstly observes that the Parties agree that

the course of their common boundary should be determined, in accordance with the *uti possidetis juris* principle, by reference to the physical situation to which French colonial law was applied, as that situation existed at the dates of independence. It emphasizes, however, that the consequences of such a course on the ground, particularly with regard to the question of to which Party the islands in the River Niger belong, must be assessed in relation to present-day physical realities and that, in carrying out the task assigned to it under Article 2 of the Special Agreement, the Chamber cannot disregard the possible appearance or disappearance of certain islands in the stretch concerned.

The Chamber secondly points out that it cannot exclude *a priori* the possibility that maps, research or other documents subsequent to the dates of independence may be relevant in order to establish, in application of the *uti possidetis juris* principle, the situation that existed at the time. In any event, since the effect of the *uti possidetis* principle is to freeze the territorial title, the examination of documents posterior to independence cannot lead to any modification of the "photograph of the territory" at the critical date unless, of course, such documents clearly express the Parties' agreement to such a change.

The Chamber thirdly notes that the approach employed by both Parties, which have on occasion sought to confirm their claims to legal title by relying on acts whereby their authorities allegedly exercised sovereignty over the disputed territories after 1960, should not necessarily be excluded.

The Chamber recalls that both Parties acknowledge that, in accordance with the principle of *uti possidetis juris*, the course of the frontier and the attribution of islands in the River Niger to either one of them must be determined in the light of French colonial law, known as "*droit d'outre-mer*". The Parties also agree on the identification of the relevant rules of that law, but do not share the same interpretation thereof. Before turning to those rules, the Chamber recalls that, when reference is made to domestic law in such a context, that law is applicable

"not in itself (as if there were a sort of *continuum juris*, a legal relay between such law and international law), but only as one factual element among others, or as evidence indicative of . . . the 'colonial heritage'" (*Frontier Dispute (Burkina Faso Republic of Mali)*, Judgment, I.C.J. Reports 1986, p. 568, para. 30).

The Chamber then observes that the territorial administration of the French possessions in West Africa was centralized by a decree of the President of the French Republic of 16 June 1895 and placed under the authority of a Governor-General. The entity of the AOF thus created was divided into colonies, headed by Lieutenant-Governors and themselves made up of basic units called "*cercles*" which were administered by *commandants de cercle*; each *cercle* was in turn composed of *subdivisions*, each administered by a *chef de subdivision*. The *subdivisions* consisted of *cantons*, which grouped together a number of villages.

The Chamber notes that the Parties acknowledge that the creation and abolition of colonies fell within the jurisdiction of the authorities of metropolitan France: the President of the French Republic, acting by decree, under the Constitution of the Third Republic, and subsequently the French Parliament, following the adoption of the Constitution of 27 October 1946. The power to create territorial subdivisions within a single colony, on the other hand, was vested in the AOF until being transferred to the local representative institutions in 1957.

Article 5 of the decree of the President of the French Republic dated 18 October 1904, providing for the reorganization of the AOF, vested the Governor-General with authority to "determine in government council (*conseil de gouvernement*), and on the proposal of the Lieutenant-Governors concerned, the administrative districts in each of the colonies". In his circular No. 114c of 3 November 1912, concerning the form of instruments for the organization of administrative districts and subdivisions, the Governor-General interpreted this text as conferring upon him "the right to establish . . . the number and extent of the *cercles* which, within the colonies, constitute[d] the actual administrative unit", but pointed out that it was "acknowledged that the Lieutenant-Governors would retain the power to determine the territorial subdivisions created within these *cercles* by measures adopted under their own authority". According to that circular, "any measure concerning the administrative district, the territorial unit proper, i.e. affecting the *cercle*, in terms of its existence (creation or abolition), its extent, its name, or the location of its administrative centre", was to be confirmed by an *arrêté général* adopted in government council; it lay with the Lieutenant-Governors "to define, by means of *arrêtés*, the approval of which [was] reserved to [the Governor-General], the exact and detailed topographical boundaries of each of these districts", as well as "within the *cercles*, [to] fix . . . the number and extent of the territorial subdivisions . . . and the location of their centre" by means of local decisions.

Evolution of legal status of territories concerned (paras. 32-36)

For a better understanding of the historical context in which the Parties' claims stand in relation to the determination of the frontier and to the question of to whom the islands in the River Niger belong, the Chamber briefly recapitulates the evolution of the legal status of the territories concerned during the colonial period.

Documents and cartographic material relevant to the settlement of the dispute (paras. 37-44)

The Chamber goes on to describe the main documents relevant to the settlement of the frontier dispute, listing on the one hand the documents that concern the determination of the course of the boundary in the River Niger sector and the question of to whom the islands in that river belong, and on the other hand the documents that relate to the delimitation in

the River Mekrou sector. The Chamber also describes the large quantity of cartographic and photographic material produced by the Parties in support of their respective arguments.

The course of the boundary in the sector of the River Niger and the question of to which Party each of the islands belongs (paras. 45-124)

Evidence of title (paras. 45-74)

Benin's claims to title

The Chamber recalls that it is firstly asked, in accordance with Article 2, paragraphs (a) and (b), of the Special Agreement, to determine the course of the boundary in the sector of the River Niger and then to specify to which Party each of the islands in the river belongs.

The Chamber points out that in the present case these territorial boundaries were no more than delimitations between different administrative divisions or colonies subject to the same colonial authority. Only at the moment of independence, also called the "critical date", did these boundaries become international frontiers. Since the Parties achieved independence virtually simultaneously the period between 1 and 3 August 1960 can be considered as the critical date. The Chamber indicates that, in accordance with the approach of the Chamber in the *Frontier Dispute (Burkina Faso Republic of Mali)* case, it will first consider the various regulative or administrative acts invoked by the Parties.

In this respect, the Chamber recalls that the Parties agree that, during the period under consideration, the power to create colonies or territories was vested in the President of the French Republic until 1946 and thereafter in the French Parliament, while colonial subdivisions could be created by the Governor-General of the AOF under the terms of the decree of 18 October 1904. In his circular No. 114c of 3 November 1912, the Governor-General of the AOF determined that the main subdivisions ("cercles") would be established by the Governor-General, but that the Lieutenant-Governors would be entitled to create further territorial subdivisions within the *cercles*. The Chamber observes that it appears that it is not disputed between the Parties that the competence to create or establish territorial entities included the power to determine their extent and to delimit them, although during the colonial period this was never made explicit in any regulative or administrative act.

The Chamber further recalls that it is not contested that in the initial period after its creation in 1894 the colony of Dahomey comprised territories situated on both banks of the River Niger. By *arrêté* of 23 July 1900, the Governor-General of the AOF established a third military territory, which "will encompass the areas on the left bank of the Niger between Say and Lake Chad that were placed within the French sphere of influence by the [Anglo-French] Convention of 14 June 1898". On 20 December 1900 a decree of the President of the French Republic was issued which established a third military territory "between the Niger and Lake Chad". The decree, which was superior to an *arrêté* in the

hierarchy of legal acts, made no reference to the *arrêté* of 23 July 1900. In the Chamber's view, the decree must nevertheless be seen as a confirmation of the *arrêté* of the Governor-General since it covers the same area between the (River) Niger and (Lake) Chad.

The Chamber notes that Benin contends that the *arrêté* of 23 July 1900 established the boundary between the Third Military Territory and the colony of Dahomey at the left bank of the River Niger, leaving the river itself and the islands located therein as part of that colony. Benin further contends that the boundary thus established was confirmed by the Governor *ad interim* of Niger in a letter of 27 August 1954 which stated "that the boundary of the Territory of Niger [was] constituted by the line of highest water on the left bank of the river, from the village of Bandofay to the frontier of Nigeria" and that "[c]onsequently, all the islands situated in this part of the river [formed] part of the Territory of Dahomey". Niger, for its part, denies that the *arrêté* of 23 July 1900 established a boundary; in its view the relevant wording was merely intended to indicate the territorial extent of the newly created Territory. It further observes that an understanding soon developed that the boundary was constituted by "the course of the river" and that this could only mean that the boundary was situated within the watercourse of the river.

The Chamber is of the view that the *arrêté* of 23 July 1900 in conjunction with the decree of the President of the French Republic of 20 December 1900, which created the Third Military Territory, cannot be read as determining the boundaries thereof. The geographical references used can only be seen as indicating in general terms the extent of the newly created territory; the words "the areas on the left bank of the Niger" in the *arrêté* and "the Niger" in the decree make it clear that these areas are detached from the colony of Dahomey to which they previously belonged. The conclusion that the legal instruments of 23 July and 20 December 1900 did not determine any boundary, and were not considered at the time as doing so, is confirmed by the letter of 7 September 1901 of the French Minister for the Colonies addressed to the Governor-General of the AOF, referring to the "course of the Niger as the best demarcation line". Although this letter did not determine the boundary, the Chamber considers that it provides sufficient evidence that a delimitation had not taken place the year before. Nor has the Chamber found any document which shows that a delimitation was carried out in subsequent years.

The Chamber therefore concludes that Benin's argument that the *arrêté* of 23 July 1900 located the boundary at the left bank of the River Niger, and that this delimitation remained in force until the date of independence, cannot be upheld.

Turning to the letter of 27 August 1954 of the Governor *ad interim* of Niger, the Chamber initially analyses the context in which this letter was written. It concludes that, in view of its finding that the *arrêté* of 23 July 1900 did not establish a boundary, this letter cannot be seen as an authoritative confirmation of such a boundary, as claimed by Benin. The

Chamber further notes that, under French colonial law, the Lieutenant-Governor of a colony had no competence to delimit unilaterally the external boundaries of the colony. Therefore, the letter in itself cannot be relied on by Benin as a legal title placing the boundary on the left bank of the river. The Chamber thus finds that it cannot uphold Benin's claim according to which the letter of 27 August 1954 in conjunction with the *arrêté* of 23 July 1900 provides it with legal title to a boundary on the left bank.

Niger's claims to title

The Chamber then turns to the acts invoked by Niger as evidence of its legal title, namely the *arrêts* issued by the Governor-General of the AOF on 8 December 1934 and 27 October 1938 reorganizing the internal administrative structure of the colony of Dahomey and containing a description of the boundaries of the various *cercles*. In both *arrêts* the north-west boundary of the *cercle* of Kandi is described as "the course of the Niger as far as its confluence with the Mekrou".

The Chamber first notes that both *arrêts* were issued by the Governor-General, who was the authority competent to establish, delimit and reorganize the *cercles* of colonies. In so far as they describe the boundaries of these *cercles* with the neighbouring colonies which also came under his authority, the *arrêts* do not have an exclusive internal character but may also be relied upon in intercolonial relations. Consequently it can be concluded on the basis of these *arrêts* that the course of the River Niger constituted the intercolonial boundary. The Chamber finds itself unable, however, to deduce therefrom that that boundary was situated *in* the river, whether at the thalweg or the median line. It notes in this regard that the terminology used in the *arrêts* is identical to that of the 1901 letter and is just as imprecise. The notion of the "course of the river" covers a range of possibilities: a boundary on either river bank or a boundary somewhere within the river. The Chamber thus finds that the 1934 and 1938 *arrêts* did not establish a boundary *in* the river; and that it cannot therefore sustain Niger's claims as to title.

Effectivités as basis for determination of the frontier (paras. 75-102)

Since the Chamber has concluded that neither of the Parties has succeeded in providing evidence of title on the basis of regulative or administrative acts during the colonial period, it turns to consider whether the evidence furnished by the Parties with respect to *effectivités* can provide the basis for it to determine the course of the frontier in the sector of the River Niger and to which of the two States each of the islands in the river belongs.

It recalls in this regard that the Court has previously ruled in a number of cases on the legal relationship between *effectivités* and title. The passage most pertinent to the present case can be found in the Judgment in the *Frontier Dispute (Burkina Faso Republic of Mali)* case, in which the

Chamber of the Court, having noted that "a distinction must be drawn among several eventualities" when evaluating the legal relationship between *effectivités* and title, stated, *inter alia*, that: "[i]n the event that the *effectivité* does not co-exist with any legal title, it must invariably be taken into consideration" (*I.C.J. Reports 1986*, p. 587, para. 63).

The Chamber first analyses the various activities prior to 1954, presented as *effectivités* by the Parties. It refers to the letter of 3 July 1914 of the *commandant* of the *secteur* of Gaya (Niger), *administrateur adjoint* Sadoux, to the *commandant* of the *cercle* of Moyen-Niger (Dahomey), written for the purpose of determining when grazing permits should be issued and delimiting the jurisdiction of the two colonies' indigenous tribunals. *Administrateur adjoint* Sadoux attached to his letter a list of islands in the border area, drawn up on the basis of an exploration of the whole stretch of the river, with an indication of the colony to which each island belonged according to its position with respect to the main navigable channel. He defined this channel as "the river's main channel, not the widest channel, but the *only channel navigable at low water*". The Chamber notes that it appears that a meeting took place and led to an agreement. Although difficulties arose in 1919 with regard to the administration of the island of Lété by Gaya, which was contested by Dahomey, the 1914 arrangement, which became known as the 1914 *modus vivendi*, seems to have been complied with in subsequent years.

The Chamber then turns to the *effectivités* in the period from 1954 until the critical date in 1960. It recalls that, on 27 August 1954, the Governor *ad interim* of Niger wrote a letter in which he stated that the boundary was situated "at the line of highest water, on the left bank of the river, from the village of Bandofay to the frontier of Nigeria" and that "all the islands situated in this part of the river [formed] part of the territory of Dahomey". The Chamber takes note of the fact that, during this period, the claims of Dahomey to be entitled to administer the island of Lété became more frequent.

On the basis of the evidence before it, the Chamber finds that, from 1914 to 1954, the terms of the *modus vivendi* established by the 1914 Sadoux letter were in general respected and that, during this period, the main navigable channel of the River Niger was considered by both sides to be the boundary. As a result, administrative authority was exercised by Niger on the islands to the left and by Dahomey on the islands to the right of that line. The entitlement of Niger to administer the island of Lété was sporadically called into question for practical reasons but was neither legally nor factually contested.

With respect to the islands opposite Gaya, the Chamber notes that, on the basis of the *modus vivendi* established by the 1914 Sadoux letter, these islands were considered to fall under the jurisdiction of Dahomey and that it has not received any information to indicate that these islands were administered from anywhere else other than the *cercle* of Kandi (Dahomey). The Chamber therefore concludes that, in this sector of the river, the boundary was regarded as passing to the left of these three islands.

The Chamber finds that the situation is less clear in the period between 1954 and 1960. It is apparent that both Parties periodically claimed rights over the islands, in particular Lété, and also occasionally performed administrative acts as a display of authority. However, on the basis of the evidence before it, the Chamber cannot conclude that the administration of the island of Lété, which before 1954 was undoubtedly carried out by Niger, was effectively transferred to or taken over by Dahomey. In this respect, the Chamber notes that a report of the gendarmerie of Malanville of 1 July 1960 stated that Lété was "currently administered by the subdivision of Gaya".

For all these reasons and in the circumstances of the case, particularly in light of the evidence furnished by the Parties, the Chamber concludes that the boundary between Benin and Niger follows the main navigable channel of the River Niger as it existed at the dates of independence, it being understood that, in the vicinity of the three islands opposite Gaya, the boundary passes to the left of these islands. Consequently, Benin has title to the islands situated between the boundary thus defined and the right bank of the river and Niger has title to the islands between that boundary and the left bank of the river.

Precise location of the boundary line in the main navigable channel
(paras. 103-115)

The Chamber then proceeds to determine the location of the boundary line in the main navigable channel, namely the line of deepest soundings, as it existed at the dates of independence.

The Chamber initially notes that, over the course of time, a number of hydrographic and topographic surveys have taken place on the River Niger and that the position of the main navigable channel of the river as determined by each of the missions is very similar. The Chamber considers that this indicates that the riverbed is relatively stable and that any siltation which has taken place has rarely led to a noticeable change in the location of the main navigable channel. This appears to have been the case in both the colonial and post-independence period.

Given that it has to determine the course of the boundary at the time of independence, the Chamber is of the view that the report of a study on the navigability of the Middle Niger, carried out by the NEDECO firm between 1967 and 1970, provides the most useful information on the situation at the critical date. In view of the proven stability of the riverbed, it may be assumed that the situation between 1967 and 1970 was virtually identical with that in 1960. In this respect, the Chamber considers it of great importance that the 1967-1970 survey was carried out by an independent firm renowned for its expertise and experience and that the results were contained in a report presented to the Governments of four riparian States, including the Parties to the present case. Furthermore, the findings of the NEDECO study were not contested at

the time of their publication and they are corroborated by both earlier and later studies.

The Chamber notes that map No. 36 of the NEDECO report indicates that in the sector opposite the village of Gaya, the river has two navigable channels. On the basis of the available data, it is not possible to say which one is consistently deeper. This is however without consequence in the present case given the conclusions drawn above by the Chamber, from the colonial *effectivités* in that sector. The Chamber considers that, in the sector of the three islands opposite Gaya, the boundary is constituted by the line of deepest soundings of the left navigable channel. However, in the vicinity of the last of these islands, Kata Goungou, the boundary deviates from that line and passes to the left of that island.

With the exception indicated in the previous paragraph, the boundary between the Parties therefore follows the line of deepest soundings of the main navigable channel of the River Niger as it appears in the 1970 NEDECO report, from the intersection of this line with the median line of the River Mekrou until its intersection with the boundary of the Parties with Nigeria.

Opposite Gaya, the boundary is constituted by the line of deepest soundings of the left navigable channel from the point situated at co-ordinates 11° 52' 29" latitude North and 3° 25' 34" longitude East until the point located at co-ordinates 11° 51' 55" latitude North and 3° 27' 41" longitude East, where the boundary deviates from this channel and passes to the left of the island of Kata Goungou, subsequently rejoining the main navigable channel at the point located at co-ordinates 11° 51' 41" latitude North and 3° 28' 53" longitude East.

The Chamber then provides a table, indicating the co-ordinates of the points numbered from 1 to 154, through which the boundary line between Benin and Niger passes in the sector of the River Niger, proceeding downstream. These points that constitute the boundary line are further represented, purely for illustrative purposes, on a sketch-map (No. 4) attached to the judgment.

Determination of to which of the Parties each of the islands belongs
(paras. 116-118)

The Chamber proceeds to determine to which of the Parties each of the islands in the River Niger belongs, following the course of the river downstream from its confluence with the Mekrou to the frontier with Nigeria.

The Chamber notes that it has not received reliable information that new islands formed nor that islands disappeared between 1960 and 1967-1970. As regards subsequent years, it observes that one of the islands identified by Niger, namely Sandi Tounga Barou, which is not represented on any map prepared before 1973, does appear on various aerial photographs and SPOT images taken from 1973 onwards. The Chamber finds it must consequently determine to which of the Parties

this island belongs. With respect to the "island" of Pekinga, which Niger in its final submissions attributed to Benin, the Chamber notes that it is not identifiable as a separate island on the maps annexed to the NEDECO report, but instead appears to be part of the river bank on the Benin side. The judgment then lists all the islands in the relevant sector of the River Niger, indicating to which Party they belong in accordance with the Chamber's findings. Finally, the Chamber observes that the determination in regard to the attribution of islands is without prejudice to any private law rights which may be held in respect of those islands.

The frontier on the two bridges between Gaya (Niger) and Malanville (Benin) (paras. 119-124)

The Chamber finally notes that Niger has also asked it to determine the frontier on the two bridges between Gaya (Niger) and Malanville (Benin). Benin contends that this issue is not covered by the Special Agreement and that the Chamber therefore has no jurisdiction to comply with Niger's request. The Chamber observes in this regard that, in the Special Agreement, "[t]he Court is requested to . . . determine the course of the boundary . . . in the River Niger sector". Since the bridges between Gaya and Malanville are located in that sector, the Chamber considers that it has jurisdiction to determine where the boundary is located on these bridges.

The Chamber notes that Niger claims that the boundary is situated at the middle point of each of the bridges given that the construction and maintenance of these structures has been financed by the Parties on an equal basis and that the bridges are their joint property. Benin, for its part, submits that a difference between the location of the boundary on the bridges and the course of the boundary in the river beneath would be incoherent.

The Chamber observes that, in the absence of an agreement between the Parties, the solution is to extend vertically the line of the boundary on the watercourse. This solution accords with the general theory that a boundary represents the line of separation between areas of State sovereignty, not only on the earth's surface but also in the subsoil and in the superjacent column of air. Moreover, the solution consisting of the vertical extension of the boundary line on the watercourse avoids the difficulties which could be engendered by having two different boundaries on geometrical planes situated in close proximity to one another.

In light of the foregoing, the Chamber concludes that the boundary on the bridges between Gaya and Malanville follows the course of the boundary in the river. This finding is without prejudice to the arrangements in force between Benin and Niger regarding the use and maintenance of these bridges, which are financed by the two States on an equal basis. The Chamber observes in particular that the question of the course of the boundary on the bridges is totally independent of that of the ownership of those structures, which belong to the Parties jointly.

The course of the boundary in the River Mekrou sector (paras. 125-145)

The Chamber then determines "the course of the boundary between the two States in the River Mekrou sector", a task with which it is charged under Article 2 (c) of the Special Agreement.

It notes that, according to Benin, the boundary follows the median line of the River Mekrou as far as the boundary of the Parties with Burkina Faso. That is said to result, on the one hand, from the application of the *uti possidetis juris* principle, since, at their dates of independence, the territories of Dahomey and Niger were separated by the course of that river pursuant both to the legal titles in force and to the *effectivités*; on the other hand and in any event, such a boundary is said to have been confirmed by Niger's formal recognition, at the time of the negotiations between the two Parties in 1973 and 1974 with a view to the construction of the Dyodyonga dam, that the Mekrou did indeed constitute the boundary between their respective territories.

The Chamber notes that, according to Niger, the boundary in the sector in question follows a line comprising two parts: the first is a straight line in a south-westerly direction joining the point of confluence of the River Mekrou with the River Niger to the point where the Paris meridian meets the Atakora mountain range; the second part joins this latter point to the point where the former boundary between the *cercles* of Say and Fada meets the former boundary between the *cercles* of Fada and Atakora. That is claimed to result from the combined effect of the regulatory instruments which, during the colonial period, defined the boundary between Dahomey and Niger in the sector in question, namely the decree of 2 March 1907 incorporating the *cercles* of Fada-N'Gourma and Say into the colony of Haut-Sénégal et Niger (to which Niger succeeded) and the decrees of 12 August 1909 and 23 April 1913 modifying the boundary of the latter colony with Dahomey.

The Chamber states that it will first ascertain, by application of the principle of *uti possidetis juris*, what the course of the intercolonial boundary was at the critical dates of independence in August 1960. It observes that, for that purpose, it is necessary to examine first the legal titles relied on by the Parties, with any *effectivités* being considered only on a confirmatory or subsidiary basis, in accordance with the rules recalled earlier in its judgment.

The first text for consideration is the decree of 2 March 1907, the object of which was to change the course of the boundary between the colony of Haut-Sénégal et Niger and that of Dahomey by incorporating the *cercles* of Fada N'Gourma and Say, until then part of Dahomey, into the neighbouring colony. Article 1 of that decree provides that the new intercolonial boundary:

"is constituted, from the boundary of Togo, by the present boundary of the *cercle* of Gourma until it reaches the Atakora mountain range, whose summit it follows until it meets the Paris meridian.

from which point it runs in a straight line in a north-easterly direction, terminating at the confluence of the River Mekrou with the Niger”.

The Chamber considers that that delimitation, which clearly does not coincide with the course of the River Mekrou, tends to support the position of Niger.

The Chamber finds that it cannot accept the proposition put forward by Benin that the decree of 1 March 1919 implicitly abrogated or amended that of 2 March 1907 in relation to the intercolonial boundary in the sector in question. The 1919 decree created the colony of Haute-Volta, which was constituted by detaching a certain number of *cercles*, including Fada N’Gourma and Say, from Haut-Sénégal et Niger. However, there is nothing in the terms of the 1919 decree to suggest that its authors intended to call into question the line defined as the intercolonial boundary in 1907.

That does not suffice nevertheless to refute Benin’s argument with respect to the course of the boundary in the sector concerned.

The Chamber is bound to note, first of all, that the 1919 decree refers neither in its citations nor in its operative articles to the 1907 decree, and that it does not include any precise definition of the intercolonial boundary, as the earlier decree had done. In reality, the 1919 decree defines the territory of Haute-Volta solely by reference to the *cercles* which compose it, and it is thus also by this means that it indirectly defines the boundaries between Haute-Volta and the neighbouring colonies, and in particular Dahomey. It is by the precise delimitation of the *cercles* mentioned in Article 1 of the decree of 1 March 1919 – a delimitation not effected by the decree itself – that, from this date, the intercolonial boundary could be defined. However, the delimitation of the *cercles*, the principal administrative subdivisions of the colonies, was at that time a matter falling within the competence of the Governor-General. It must therefore be concluded from the foregoing that, while the 1919 decree did not call into question the intercolonial boundary determined in 1907, it left unaffected the power of the Governor-General to modify the boundary in the future by fixing the boundaries of the *cercles* in question in accordance with his normal competence in that regard.

The Chamber notes that an *arrêté* of the Governor-General of 31 August 1927 defines the River Mekrou as the boundary of the *cercle* of Say in the area contiguous with the colony of Dahomey. That *arrêté* was adopted by the Governor-General following, and as a consequence of, the decree of 28 December 1926 incorporating the *cercle* of Say into the colony of Niger (created some years earlier). It was thus for the Governor-General to define the boundaries between the colonies of Haute-Volta and Niger, in the exercise of his power to define the boundaries of the *cercles*: that was the purpose of the *arrêté* of 31 August 1927. That instrument, in the second paragraph of Article 1, defined the boundary between the *cercle* of Say and Haute-Volta in the following terms:

"In the South-West [by] a line starting approximately from the [River] Sirba at the level of the Say parallel and terminating at the Mekrou;

In the South-East, by the Mekrou from that point as far as its confluence with the Niger."

Thus, by this *arrêté* the Governor-General clearly fixed the boundary of the *cercle* of Say, and hence the intercolonial boundary, on the Mekrou.

The Chamber observes that the *arrêté* of 31 August 1927 was followed on 15 October by an *erratum* amending its text retroactively by removing the reference to the course of the Mekrou as the south-eastern boundary between the *cercle* of Say and Haute-Volta. However, the *erratum* would seem in effect to have been motivated not by the fact that the Governor-General did not mean to fix the south-eastern boundary of the *cercle* of Say along the Mekrou, but rather by a wish not to define the boundary between Dahomey and Niger in an *arrêté* whose purpose, as was clear from its title, was to fix the boundary between Niger and Haute-Volta.

The Chamber furthermore takes account of the instruments concerning the creation of game reserves and national parks in the area known as "The Niger W"; it notes that all those instruments use the River Mekrou for purposes of delimitation of the areas in question. If, in the eyes of the administrative authorities competent to promulgate the *arrêts* in question, the Mekrou did not represent the intercolonial boundary, it is difficult to see why it should have been chosen as the boundary of these national parks and nature reserves. Finally, the Chamber notes that the cartographic material in the file clearly confirms that, certainly from 1926-1927, the Mekrou was generally regarded as the intercolonial boundary by all the administrative authorities and institutions of the colonial Power.

All of the foregoing considerations confirm the position that the 1907 line no longer corresponded, at the critical date, to the intercolonial boundary and that, on the contrary, at that date, it was the course of the Mekrou which, in the view of all the competent authorities of the colonial administration, constituted the boundary between the adjacent colonies – at that date the colonies of Dahomey and Niger.

The Chamber observes that, as argued by Niger, the decree of 2 March 1907, which clearly defined a different boundary, was never expressly abrogated or amended, or indeed superseded by some other instrument of at least equal authority – either a decree or a statute – containing provisions clearly incompatible with its own. However, the Chamber emphasizes that the *uti possidetis juris* principle requires not only that reliance be placed on existing legal titles, but also that account be taken of the manner in which those titles were interpreted and applied by the competent public authorities of the colonial Power, in particular in the exercise of their law-making power. The Chamber is bound to note that the administrative instruments promulgated after 1927 were never the subject of any challenge before the competent courts, and that

there is no evidence that the colonial administration was ever criticized at the time for having improperly departed from the line resulting from the 1907 decree.

The Chamber concludes from all of the foregoing that, at least from 1927 onwards, the competent administrative authorities regarded the course of the Mekrou as the intercolonial boundary separating Dahomey from Niger; that those authorities reflected that boundary in the successive instruments promulgated by them after 1927, some of which expressly indicated that boundary, whilst others necessarily implied it; and that this was the state of the law at the dates of independence in August 1960. In these circumstances, the Chamber finds, it is unnecessary to look for any *effectivités* in order to apply the *uti possidetis* principle, since *effectivités* can only be of interest in a case in order to complete or make good doubtful or absent legal titles, but can never prevail over titles with which they are at variance. The Chamber notes moreover, *ex abundanti*, that the *effectivités* relied on by the Parties in the sector in question are relatively weak.

In the light of this conclusion, the Chamber notes that the dispute between the Parties regarding the Dyodyonga dam negotiations of 1973 and 1974 becomes moot. It is thus unnecessary for the Chamber to decide whether the resulting documents could have constituted a legally binding obligation for Niger and, if so, whether that obligation could have been vitiated by an error fulfilling the conditions laid down by customary international law.

Location of the boundary line in the River Mekrou (paras. 143-145)

Lastly, the Chamber determines the exact location in the River Mekrou of the boundary between Benin and Niger.

The Chamber recalls that, in the case concerning *Kasikili Sedudu Island (Botswana/Namibia)*, the Court observed that:

"Treaties or conventions which define boundaries in water courses nowadays usually refer to the thalweg as the boundary when the watercourse is navigable and to the median line between the two banks when it is not, although it cannot be said that practice has been fully consistent." (*I.C.J. Reports 1999 (II)*, p. 1062, para. 24.)

In the present case, the Chamber observes that the Parties did not provide the Chamber with any documents that would enable the exact course of the thalweg of the Mekrou to be identified. The Chamber notes that in all likelihood there is a negligible difference between the course of the thalweg and the course of the median line of the River Mekrou, but considers that, in view of the circumstances, including the fact that the river is not navigable, a boundary following the median line of the Mekrou would more satisfactorily meet the requirement of legal security inherent in the determination of an international boundary.

The Chamber concludes therefore, that, in the sector of the River Mekrou, the boundary between Benin and Niger is constituted by the median line of that river.

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Operative paragraph (para. 146)

"For these reasons,

THE CHAMBER,

(1) By four votes to one,

Finds that the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector takes the following course:

- the line of deepest soundings of the main navigable channel of that river, from the intersection of the said line with the median line of the River Mekrou until the point situated at co-ordinates 11° 52' 29" latitude North and 3° 25' 34" longitude East;
- from that point, the line of deepest soundings of the left navigable channel until the point located at co-ordinates 11° 51' 55" latitude North and 3° 27' 41" longitude East, where the boundary deviates from this channel and passes to the left of the island of Kata Goungou, subsequently rejoining the main navigable channel at the point located at co-ordinates 11° 51' 41" latitude North and 3° 28' 53" longitude East;
- from this latter point, the line of deepest soundings of the main navigable channel of the river as far as the boundary of the Parties with Nigeria;

and that the boundary line, proceeding downstream, passes through the points numbered from 1 to 154, the co-ordinates of which are indicated in paragraph 115 of the present Judgment;

IN FAVOUR: Judge Ranjeva, Vice-President of the Court, President of the Chamber; Judges Kooijmans, Abraham; Judge ad hoc Bedjaoui;

AGAINST: Judge ad hoc Bennouna;

(2) By four votes to one,

Finds that the islands situated in the River Niger therefore belong to the Republic of Benin or to the Republic of Niger as indicated in paragraph 117 of the present Judgment;

IN FAVOUR: Judge Ranjeva, Vice-President of the Court, President of the Chamber; Judges Kooijmans, Abraham; Judge ad hoc Bedjaoui;

AGAINST: Judge ad hoc Bennouna;

(3) By four votes to one,

Finds that the boundary between the Republic of Benin and the

Republic of Niger on the bridges between Gaya and Malanville follows the course of the boundary in the river;

IN FAVOUR: Judge Ranjeva, *Vice-President of the Court, President of the Chamber*; Judges Kooijmans, Abraham; Judge ad hoc Bedjaoui;

AGAINST: Judge ad hoc Bennouna;

(4) Unanimously,

Finds that the boundary between the Republic of Benin and the Republic of Niger in the River Mekrou sector follows the median line of that river, from the intersection of the said line with the line of deepest soundings of the main navigable channel of the River Niger as far as the boundary of the Parties with Burkina Faso."

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Judge ad hoc Bennouna appended a dissenting opinion to the Judgment of the Chamber.

18. Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)

On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning: "massive, serious and flagrant violations of human rights and of international humanitarian law" resulting

"from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations Charter and the Charter of the Organization of African Unity".

In its Application, the Democratic Republic of the Congo stated that Rwanda has been guilty of "armed aggression" from August 1998 to the present day. According to it, that aggression has resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the major towns in the East" of the Democratic Republic of the Congo, and "destruction of fauna and flora" of the country.

In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the United Nations Charter as well as Articles 3 and 4 of the Charter of the

Organization of African Unity; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 in Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting, and crucifying, Rwanda was guilty of genocide against more than 3,500,000 Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

In its Application the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order (*I.C.J. Reports 2002*, p. 219), by which, having found that it had no *prima facie* jurisdiction, it rejected the request of the Democratic Republic of the Congo. The Court, in that Order, also rejected the submissions by the Rwandese Republic seeking the removal of the case from the Court's List.

By an Order of 18 September 2002 (*I.C.J. Reports 2002*, p. 299), the Court decided, in accordance with Article 79, paragraphs 2 and 3, of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application and fixed 20 January 2003 as the time-limit for the Memorial of Rwanda and 20 May 2003 for the Counter-Memorial of the Democratic Republic of the Congo. Those pleadings were filed within the time-limits thus fixed.

Public hearings addressed to the questions of the jurisdiction of the Court and the admissibility of the Application were held from 4 to 8 July 2005. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Rwanda:

"[T]he Republic of Rwanda requests the Court to adjudge and declare that:

1. it lacks jurisdiction over the claims brought against the Republic of Rwanda by the Democratic Republic of the Congo; and
2. in the alternative, the claims brought against the Republic of Rwanda by the Democratic Republic of the Congo are inadmissible."

For the Democratic Republic of the Congo:

"May it please the Court,

1. to find that the objections to jurisdiction and admissibility raised by Rwanda are unfounded;
2. consequently, to find that the Court has jurisdiction to entertain the case on the merits and that the Application of the Democratic Republic of the Congo is admissible as submitted;
3. to decide to proceed with the case on the merits."

At the time of the preparation of this *Yearbook*, the Court was deliberating its Judgment.

19. Certain Criminal Proceedings in France (Republic of the Congo v. France)

On 9 December 2002, the Republic of the Congo filed an Application by which it sought to institute proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Mr. Denis Sassou Nguesso, the Congolese Minister of the Interior, Mr. Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux *tribunal de grande instance* issued a warrant for the President of the Republic of the Congo to be examined as witness.

The Republic of the Congo contended that by

"attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country",

France violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no action was taken in the proceedings.

By a letter dated 8 April 2003 and received on 11 April 2003 in the Registry, the French Republic stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that

"Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

The Application of the Republic of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux *Tribunal de grande instance*".

Taking into account the consent given by France and in accordance with Article 74, paragraph 3, of the Rules of Court, the President of the Court fixed 28 April 2003 as the date for the opening of the public hearings on the request for the indication of a provisional measure submitted by the Republic of the Congo.

After those hearings had been held, from 28 to 29 April 2003, the President of the Court, on 17 June 2003, read the Order (*I.C.J. Reports 2003*, p. 102), by which the Court found, by fourteen votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

Judges Koroma and Vereshchetin appended a joint separate opinion to the Order, and Judge *ad hoc* de Cara a dissenting opinion.

By an Order of 11 July 2003 (*I.C.J. Reports 2003*, p. 143), the President of the Court fixed 11 December 2003 as the time-limit for the Memorial of the Republic of the Congo and 11 May 2004 as the time-limit for the Counter-Memorial of France. The Memorial and the Counter-Memorial were duly filed within the time-limits fixed.

By an Order of 17 June 2004 (*I.C.J. Reports 2004*, p. 130), the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Republic of the Congo and a Rejoinder by France, and fixed 10 December 2004 and 10 June 2005 as the respective time-limits for the filing of those pleadings.

By Orders of 8 and 29 December 2004 (*I.C.J. Reports 2004*, pp. 276 and 1452) and of 11 July 2005 (*I.C.J. Reports 2005*, p. 87), the President of the Court, taking account of the reasons given by the Republic of the Congo and of the agreement of the Parties, extended to 10 January and 10 August 2005, then to 11 July 2005 and 11 August 2006, and finally to 11 January 2006 and 10 August 2007, these respective time-limits.

20. *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*

On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

In Article 2 of that Special Agreement, the Parties requested the Court

“to determine whether sovereignty over:

- (a) Pedra Branca/Pulau Batu Puteh;
- (b) Middle Rocks;
- (c) South Ledge,

belongs to Malaysia or the Republic of Singapore”.

In Article 6, the Parties “agree to accept the Judgment of the Court . . . as final and binding upon them”.

The Parties further set out their views on the procedure to be followed.

By an Order of 1 September 2003 (*I.C.J. Reports 2003*, p. 146), the President of the Court, taking into account the provisions of Article 4 of the Special Agreement, fixed 25 March 2004 and 25 January 2005 as the respective time-limits for the filing, by each of the Parties, of a Memorial and of a Counter-Memorial. The Memorials were duly filed within the time-limit fixed.

By an Order of 1 February 2005 (*I.C.J. Reports 2005*, p. 3), the Court, taking into account the provisions of the Special Agreement, fixed 25 November 2005 as the time-limit for the filing of a Reply by each of the Parties.

21. *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*

On 16 September 2004, Romania filed an Application instituting proceedings against Ukraine in respect of a dispute concerning

“the establishment of a single maritime boundary between the two States in the Black Sea, thereby delimiting the continental shelf and the exclusive economic zones appertaining to them”.

In its Application Romania explained that, “following a complex process of negotiations”, Ukraine and itself signed on 2 June 1997 a Treaty on Relations of Co-operation and Good-Neighbourliness, and concluded an Additional Agreement by exchange of letters between their respective Ministers for Foreign Affairs. Both instruments entered into force on 22 October 1997. By these agreements,

“the two States assumed the obligation to conclude a Treaty on the State Border Régime between them, as well as an Agreement for the delimitation of the continental shelf and the exclusive economic zones . . . in the Black Sea”.

At the same time,

“the Additional Agreement provided for the principles to be applied in the delimitation of the above-mentioned areas, and set out the commitment of the two countries that the dispute could be submitted to the ICJ, subject to the fulfilment of certain conditions”.

Between 1998 and 2004, 24 rounds of negotiations were held. However, according to Romania, “no result was obtained and an agreed delimitation of the maritime areas in the Black Sea was not accomplished”. Romania brought the matter before the Court “in order to avoid the indefinite prolongation of discussions that, in [its] opinion, obviously cannot lead to any outcome”.

Romania requested the Court

“to draw in accordance with international law, and specifically the criteria laid down in Article 4 of the Additional Agreement, a single maritime boundary between the continental shelf and the exclusive economic zone of the two States in the Black Sea”.

As a basis for the Court’s jurisdiction Romania invoked Article 4 (*h*) of the Additional Agreement, which provides:

“If these negotiations [referred to above] shall not determine the conclusion of the above-mentioned agreement [on the delimitation of the continental shelf and the exclusive economic zones in the Black Sea] in a reasonable period of time, but not later than 2 years since their initiation, the Government of Romania and the Government of Ukraine have agreed that the problem of delimitation of the continental shelf and the exclusive economic zones shall be solved by the United Nations International Court of Justice, at the request of any of the parties, provided that the Treaty on the regime of the State border between Romania and Ukraine has entered into force. However, should the International Court of Justice consider that the delay of the entering into force of the Treaty on the regime of the State border is the result of the other Party’s fault, it may examine the request concerning the delimitation of the continental shelf and the exclusive economic zones before the entering into force of this Treaty.”

Romania contended that the two conditions set out in Article 4 (*h*) of the Additional Agreement had been fulfilled, since the negotiations had by far exceeded two years and the Treaty on the Romanian-Ukrainian State Border Régime had entered into force on 27 May 2004.

In its Application Romania further provided an overview of the applicable law for solving the dispute, citing a number of provisions of the Additional Agreement of 1997, as well as the 1982 Montego Bay United Nations Convention on the Law of the Sea, to which both Ukraine and Romania were parties, together with other relevant instruments binding the two countries.

By an Order of 19 November 2004 (*I.C.J. Reports 2004*, p. 273), the Court, taking into account the views of the Parties, fixed 19 August 2005 and 19 May 2006 as the time-limits for the filing of a Memorial by Romania and a Counter-Memorial by Ukraine.

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. *Organization of the Court*

(a) *Election and installation of a new Member of the Court*

(Statute, Arts. 13, para. 4, 14, 15 and 20; Rules, Arts. 2, para. 2, 3, 4 and 5)

A judge having resigned during the period under review, the General Assembly and the Security Council held on 15 February 2005 an election to fill the resulting vacancy for the remainder of the term which will end on 5 February 2009 (see above, p. 17).

The newly elected judge made the solemn declaration required by the Statute and the Rules of Court at a public sitting that the Court held on 18 February 2005.

(b) *The Presidency*

(Statute, Art. 48; Rules, Arts. 31, 44, para. 4, and 48)

In the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)*, the President of the Court, taking into account the agreement of the Parties, extended, on three separate occasions, the time-limits for the submission of the Reply and the Rejoinder.

On several occasions the President convened meetings with the Agents of the Parties in the cases pending before the Court in order to ascertain the views of those Parties with regard to questions of procedure.

(c) *Judges ad hoc*

(Statute, Art. 31, para. 3; Rules, Art. 35)

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, the applicant State exercised its right to choose a judge *ad hoc*.

(d) *Chamber constituted to deal with the case concerning the Frontier Dispute (Benin/Niger)*

(Statute, Art. 13, para. 4, and Art. 26, para. 2; Rules, Arts. 17 and 18)

Following the resignation of the judge referred to under (a) above, the Court elected his successor as a member of the Chamber constituted to deal with the case concerning the *Frontier Dispute (Benin/Niger)*. By an Order of 16 February 2005, the Court placed on record certain changes in the composition of the said Chamber.

(e) *Chamber of Summary Procedure*

(Statute, Art. 29)

During the period under review the Court composed the Chamber of Summary Procedure, consisting of five judges and two substitute judges (see pp. 27-28 above).

(f) *Chamber for Environmental Matters*

(Statute, Art. 26, para. 1; Rules, Arts. 16 and 18)

Following the resignation of the judge referred to under (a) above, another Member of the Court replaced him in the Chamber for Environmental Matters. The current mandate of the Chamber, consisting of seven members, ends in February 2006.

2. *Jurisdiction of the Court*

General

(Statute, Art. 35, paras. 1 and 2; Rules, Art. 38, para. 5, and Art. 79)

In its Judgments of 15 December 2004, in each of the eight cases concerning *Legality of Use of Force (Serbia and Montenegro v. Belgium)* (*Serbia and Montenegro v. Canada*) (*Serbia and Montenegro v. France*) (*Serbia and Montenegro v. Germany*) (*Serbia and Montenegro v. Italy*) (*Serbia and Montenegro v. Netherlands*) (*Serbia and Montenegro v. Portugal*) (*Serbia and Montenegro v. United Kingdom*), the Court dealt with a preliminary question, namely whether, as a result of the changed attitude of the Applicant to the Court's jurisdiction, as expressed in the observations on the Respondents' preliminary objections, the Court should not simply decide to dismiss the case *in limine litis*, and remove it from its List without enquiring further into matters of jurisdiction. In each of the cases, the Court found itself unable to uphold the various contentions of the respondent States in this respect. It considered that it could not treat the observations of Serbia and Montenegro as having the legal effect of a discontinuance of the proceedings and found that the cases did not fall into the category of cases in which it may of its own motion put an end to proceedings in a case. The Court observed that the question whether the Applicant was or was not a State party to the Statute of the Court at the time of the institution of the proceedings was fundamental.

The Court further pointed out that there was no doubt that Serbia and Montenegro "is a State for the purpose of Article 34, paragraph 1, of the Statute". However, the objection was raised by certain Respondents that, at the time when the Application was filed, Serbia and Montenegro did not meet the conditions set down in Article 35 of the Statute. The Court concluded that Serbia and Montenegro was not a Member of the United Nations, and in that capacity a State party to the Statute

of the International Court of Justice, at the time of filing its Application to institute the present proceedings before the Court on 29 April 1999. The Applicant not having become a party to the Statute on any other basis, it follows that the Court was not then open to it under Article 35, paragraph 1, of the Statute.

The Court then considered whether it might be open to the Applicant under paragraph 2 of Article 35.

The Court concluded that, even assuming that the Applicant was a party to the Genocide Convention at the relevant date, Article 35, paragraph 2, of the Statute does not provide it with a basis for access to the Court under Article IX of that Convention, since the Convention only entered into force on 12 January 1951, after the entry into force of the Statute. The Court did not therefore consider it necessary to decide whether Serbia and Montenegro was or was not a party to the Genocide Convention on 29 April 1999, when the current proceedings were instituted.

Additionally, in the cases against France, Germany and Italy, the Applicant invoked "Article 38, paragraph 5, of the Rules of the Court".

With regard to this second ground of jurisdiction thus invoked by the Applicant, the Court recalled in all three cases that at the provisional measures stage, it found that "it is quite clear that, in the absence of consent by France, Germany and Italy given pursuant to Article 38, paragraph 5, of the Rules, the Court cannot exercise jurisdiction even *prima facie*" (*I.C.J. Reports 1999 (I)*, p. 373, para. 31; p. 432, para. 31; and p. 492, para. 31, respectively). The Court noted that the Parties had not returned to this matter.

In addition to the above, the Court examined the question whether Serbia and Montenegro was entitled to evoke Article 4 of the 1930 Convention of Conciliation, Judicial Settlement and Arbitration between the Kingdom of Yugoslavia and Belgium as a basis of jurisdiction in the case against Belgium and Article 4 of the 1931 Treaty of Judicial Settlement, Arbitration and Conciliation between the Kingdom of Yugoslavia and the Netherlands as a basis of jurisdiction in the case against the Netherlands.

In both cases the Court observed that it had already found that Serbia and Montenegro was not a party to the Statute when the Application instituting proceedings in both cases was filed, and consequently that the Court was not open to it at that time under Article 35, paragraph 1, of the Statute. The question remained however whether the 1930 Convention or the 1931 Treaty, both of which were concluded prior to the entry into force of the Statute, might rank as "treat[ies] in force" for the purposes of Article 35, paragraph 2, and hence provide a basis of access. The Court observed that Article 35 of the Statute of the Court concerned access to the present Court and not to its predecessor, the Permanent Court of International Justice (PCIJ). The conditions for transfer of jurisdiction from the PCIJ to the present Court are governed by Article 37 of the Statute. However, it did not signify that a similar transfer was to

be read into Article 35, paragraph 2, of the Statute. The Court noted that Article 37 applies only as between parties to the Statute. It accordingly found that Article 37 cannot give Serbia and Montenegro access to the present Court under Article 35, paragraph 2, on the basis of the 1930 Convention or the 1931 Treaty, irrespective of whether or not those instruments were in force on 29 April 1999 at the date of the filing of the Application.

Having concluded that Serbia and Montenegro has no access to the Court under either paragraph 1 or paragraph 2 of Article 35, the Court noted that it was unnecessary for it to consider the Respondents' other preliminary objections.

Finally, the Court recalled that, irrespective of whether it has jurisdiction over a dispute, the parties "remain in all cases responsible for acts attributable to them that violate the rights of other States".

The Court found that "it has no jurisdiction to entertain the claims made in the Application filed by Serbia and Montenegro on 29 April 1999".

In its Judgment of 10 February 2005 in the case concerning *Certain Property (Liechtenstein v. Germany)*, the Court recalled that Liechtenstein based the Court's jurisdiction on Article 1 of the European Convention for the Peaceful Settlement of Disputes and that Germany raised six preliminary objections to the jurisdiction of the Court and to the admissibility of Liechtenstein's Application.

The Court considered the first of those exceptions, according to which there was no dispute between Germany and Liechtenstein. After having examined the Parties' arguments, it found that the complaints of fact and law formulated by Liechtenstein against Germany were denied by Germany and ruled that, by virtue of this denial, there was a legal dispute between the Parties. The Court then turned to identifying the subject-matter of the dispute and found that it was whether, by applying Article 3, Chapter Six, of the Settlement Convention to Liechtenstein property that had been confiscated by Czechoslovakia in 1945, Germany was in breach of the international obligations it owed to Liechtenstein and, if so, what was the extent of Germany's international responsibility. Having established the existence of a dispute and identified its subject-matter, the Court dismissed the first preliminary objection raised by Germany.

The Court examined the second preliminary objection, according to which Liechtenstein's Application should be rejected on the grounds that the Court lacked jurisdiction *ratione temporis* to decide the dispute.

The Court concluded that, although the proceedings were instituted by Liechtenstein as a result of decisions by German courts concerning a painting by Pieter van Laer, these events had their source in specific measures taken by Czechoslovakia in 1945, which led to the confiscation of property owned by some Liechtenstein nationals, including Prince Franz Jozef II of Liechtenstein, as well as in the special régime created by the Settlement Convention. While the decisions of those courts triggered the dispute between Liechtenstein and Germany, the source or real cause

of the dispute was to be found in the Settlement Convention and the Beneš Decrees. In light of the provisions of Article 27 (a) of the European Convention for the Peaceful Settlement of Disputes, the Court therefore upheld the second preliminary objection.

Having dismissed the first preliminary objection of Germany, but upheld its second, the Court found that it was not required to consider Germany's other objections and that it could not rule on Liechtenstein's claims on the merits.

3. Contentious Procedure

(a) Institution of proceedings

(Statute, Art. 40; Rules Arts. 38 and 42)

In the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, proceedings were instituted by means of an Application. The Registrar proceeded with the requisite communications, in conformity with the Statute and the Rules of the Court.

(b) Number of pleadings and fixing or extension of time-limits

(Statute, Arts. 43 and 48; Rules, Arts. 44, 46, para. 2, and 50)

In the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, the Court fixed the time-limits for the filing of the Applicant's Memorial and the Respondent's Counter-Memorial.

In the case concerning the *Frontier Dispute (Benin/Niger)*, the President of the Chamber, taking into account the agreement of the Parties, authorized the filing of a Reply by each of the Parties and fixed the time-limit for the filing thereof.

In the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)*, the President of the Court, taking account of the reasons given by the Applicant and the agreement of the Parties, extended on three occasions the time-limits for the filing of the Reply by the Applicant and the Rejoinder by the Respondent.

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, the Court fixed the time-limits for the filing by each of the Parties of a Reply.

(c) Filing of pleadings

(Rules, Arts. 45 and 46)

In the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, the Applicant filed its Memorial within the time-limit fixed by the Court.

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, both Parties filed their Counter-Memorials within the time-limits fixed by the Court.

In the case concerning the *Frontier Dispute (Benin/Niger)*, both Parties filed their Replies within the time-limits fixed by the Court.

(d) *Presentation of new documents*

(Statute, Art. 52; Rules Art. 56)

In the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, the Applicant informed the Court on 1 February 2005 that it wished to produce certain new documents, in accordance with Article 56 of the Rules of Court. On 16 February 2005, the Respondent informed the Court that it did not intend to raise any objection to the production of one of the new documents by the Applicant, and presented certain observations on the remaining documents. On 21 February 2005, the Registrar informed the Parties that the Court had decided to authorize the production of the documents submitted by the Applicant.

On 15 March 2005, in the same case, the Respondent provided the Registry with a new document which it wished to produce under Article 56 of the Rules of Court. No objection having been made by the Applicant to the Respondent's request, the Registrar, on 8 April 2005, informed the Parties that the Court had decided to authorize the production of the said document. The Parties have also been advised that a decision to authorize the production of a new document under Article 56 of the Rules of Court is without prejudice to the general application of the provisions of Article 102 of the Charter of the United Nations, and have been invited to provide the Court with the necessary information on issues of registration and status of the international instruments concerned.

(e) *Oral proceedings*

(Statute, Arts. 43, 45 and 46; Rules, Arts. 54, 58, 59 and 92, para. 3)

The Chamber formed to deal with the case concerning the *Frontier Dispute (Benin/Niger)* held two rounds of oral arguments in which both Parties participated.

The Court held two rounds of oral arguments in the following cases: *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)* and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*. All Parties involved participated in the oral proceedings.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

The Court, having ascertained the views of the Parties, decided, pursuant to Article 53, paragraph 2, of its Rules, that copies of the pleadings and documents would be made accessible to the public on the opening of the oral proceedings in the following cases: *Armed Activities on the Territory*

of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), *Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Uganda) and the *Frontier Dispute* (Benin/Niger).

(g) *Final submissions*

(Rules, Art. 60, para. 2)

In the second round of oral arguments in the cases concerning *Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Uganda), *Armed Activities on the Territory of the Congo* (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), and the *Frontier Dispute* (Benin/Niger), the Agents of each of the Parties read the final submissions of their Governments, which they also submitted in writing.

(h) *Reading of decisions of the Court*

(Statute, Art. 58; Rules, Arts. 94 and 95)

The Judgments of the Court in the cases concerning *Legality of Use of Force* (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) (Serbia and Montenegro v. United Kingdom) and *Certain Property* (Liechtenstein v. Germany) were read at a public sitting; in view of the length of the texts, the President omitted or summarized certain passages. A duly signed and sealed copy was transmitted to each of the agents of the Parties at the end of the reading.

The Judgment of the Chamber constituted to deal with the case concerning the *Frontier Dispute* (Benin/Niger) was read at a public sitting; in view of the length of the text, the President of the Chamber omitted or summarized certain passages. A duly signed and sealed copy was transmitted to each of the agents of the Parties at the end of the reading.

(i) *Separate and dissenting opinions and declarations*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In each of the cases concerning *Legality of Use of Force* (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) (Serbia and Montenegro v. United Kingdom), seven judges appended a joint declaration to the Judgment of the Court; one judge appended a declaration, and three judges and one judge *ad hoc* appended separate opinions.

In the case concerning *Certain Property* (Liechtenstein v. Germany), three judges and one judge *ad hoc* appended dissenting opinions to the Judgment of the Court; one judge *ad hoc* appended a declaration.

In the case concerning the *Frontier Dispute (Benin/Niger)*, one judge *ad hoc* appended a dissenting opinion to the Judgment of the Chamber.

III. MUSEUM OF THE COURT

On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions in the Peace Palace) situated in the south wing of the Peace Palace.

Its collection presents an overview of the theme "Peace through Justice" highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the consequent construction of the Peace Palace as a seat for international justice; and the Permanent Court of International Justice and the present Court (the genesis of the United Nations; the Court and its Registry; the attire of the Judges; the Bench at present; the provenance of Judges and cases; the procedure of the Court; the world's legal systems; the case-law of the Court; prominent visitors).

IV. VISITS

A. Visit of the Under-Secretary-General, the Legal Counsel of the United Nations

On Wednesday 16 March 2005, Mr. Nicolas Michel, Under-Secretary-General, the Legal Counsel of the United Nations, paid a visit to the Court. He was greeted by the President of the Court, following which he met with Members of the Court during a small reception in the Judges' Lounge. After the reception, Mr. Michel was shown around the Peace Palace, including a visit to the Archives of the Nuremberg Tribunal.

B. Other Visits

During the period under review, the President and Members of the Court, the Registrar and officials of the Registry received further a great number of visits of, *inter alia*, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials.

A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, were also received.

V. ADDRESSES, LECTURES AND PUBLICATIONS ON THE WORK OF THE COURT

During the period covered under review, the President of the Court, in his official capacity, gave a speech to the Asian-African Legal

Consultative Organization on 29 October 2004. He also delivered a speech to the meeting of Legal Advisers to Ministers for Foreign Affairs of the United Nations Member States on 1 November 2004. On 4 November 2004, the President addressed the General Assembly on the occasion of the presentation of the Court's Annual Report, while, on 5 November 2004, President Shi addressed the Sixth Committee of the General Assembly of the United Nations on the advisory function of the International Court of Justice. On 14 July 2005, he addressed the United Nations International Law Commission, during its fifty-seventh session (second part), which was held in Geneva.

VI. REPORT AND REPRESENTATION OF THE COURT AT THE GENERAL ASSEMBLY

On the occasion of the fifty-ninth session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 2003 to 31 July 2004 (A/59/4). This report was divided into an introductory summary and nine further chapters, relating to the organization, jurisdiction and judicial work of the Court, visits, lectures, the Court's publications and documents, and administrative and budgetary issues. The General Assembly took note of the report at its 49th plenary meeting held on 4 November 2004.

On that occasion the President, who, with the Registrar, represented the Court at the fifty-ninth session of the General Assembly, addressed that body on the role and functioning of the Court (A/59/PV.49). The full text of the address is reproduced in the Appendix to this Chapter (see below, p. 280). Following the presentation of the Court's report by its President, the representatives of Guatemala, Japan, Malaysia, Mexico, Nigeria, Peru, Russian Federation, Spain, Syrian Arab Republic and Uganda made statements. Those Members of the Court who were present in New York also attended part of the fifty-ninth session of the General Assembly.

A report dealing with the period 1 August 2004 to 31 July 2005 will be submitted on the occasion of the sixtieth session of the General Assembly (A/60/4).

VII. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 2004 and 31 July 2005 the Court received approximately 2,000 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

I. ACTION PURSUANT TO ADVISORY OPINIONS OF THE COURT

The present heading contains the information received in the Registry between 1 August 2004 and 31 July 2005 concerning action taken pursuant to certain Advisory Opinions of the Court. The Registry, which does not take the initiative of seeking such information, publishes it without comment as and when it is received and can accept no responsibility in connection with it.

Legality of the Threat or Use of Nuclear Weapons

By a note dated 15 October 1996 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 8 July 1996 to the General Assembly (United Nations doc. A/51/218)¹.

At the 79th plenary meeting of its fifty-first session, held on 10 December 1996, the General Assembly adopted resolution 51/45 M, at the 67th plenary meeting of its fifty-second session, held on 9 December 1997, resolution 52/38 O, at the 79th plenary meeting of its fifty-third session, held on 4 December 1998, resolution 53/77 W, at the 69th plenary meeting of its fifty-fourth session, held on 1 December 1999, resolution 54/54 Q, at the 69th plenary meeting of its fifty-fifth session, held on 20 November 2000, resolution 55/33 X, at the 68th plenary meeting of its fifty-sixth session, held on 29 November 2001, resolution 56/24 S, at the 57th plenary meeting of its fifty-seventh session, held on 22 November 2002, resolution 57/85, and at the 71st plenary meeting of its fifty-eighth session, held on 8 December 2003, resolution 58/46, the full texts of which are reproduced in *I.C.J. Yearbook 1996-1997*, pp. 205-206, *I.C.J. Yearbook 1997-1998*, pp. 286-288, *I.C.J. Yearbook 1998-1999*, pp. 313-315, *I.C.J. Yearbook 1999-2000*, pp. 278-280, *I.C.J. Yearbook 2000-2001*, pp. 317-319, *I.C.J. Yearbook 2001-2002*, pp. 306-307, *I.C.J. Yearbook 2002-2003*, pp. 325-327, and *I.C.J. Yearbook 2003-2004*, pp. 322-324, respectively.

At the 66th plenary meeting of its fifty-ninth session, held on 3 December 2004, the General Assembly adopted resolution 59/83, the full text of which is reproduced below:

"Follow-up to the Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*

The General Assembly,

Recalling its resolutions 49/75 K of 15 December 1994, 51/45 M of 10 December 1996, 52/38 O of 9 December 1997, 53/77 W of 4 December 1998, 54/54 Q of 1 December 1999, 55/33 X of 20 November 2000, 56/24 S of 29 November 2001, 57/85 of 22 November 2002 and 58/46 of 8 December 2003,

Convinced that the continuing existence of nuclear weapons poses a threat to all humanity and that their use would have catastrophic consequences for all life on Earth, and recognizing that the only defence against a nuclear catastrophe is the total elimination of nuclear weapons and the certainty that they will never be produced again,

Reaffirming the commitment of the international community to the goal of the total elimination of nuclear weapons and the creation of a nuclear-weapon-free world,

Mindful of the solemn obligations of States parties, undertaken in article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effective measures relating to cessation of the nuclear-arms race at an early date and to nuclear disarmament,

Recalling the principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Emphasizing the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, adopted at the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Recalling the adoption of the Comprehensive Nuclear-Test-Ban Treaty in its resolution 50/245 of 10 September 1996, and expressing its satisfaction at the increasing number of States that have signed and ratified the Treaty,

Recognizing with satisfaction that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba are gradually freeing the entire southern hemisphere and adjacent areas covered by those treaties from nuclear weapons,

Stressing the importance of strengthening all existing nuclear-related disarmament, arms control and reduction measures,

Recognizing the need for a multilaterally negotiated and legally binding instrument to assure non-nuclear-weapon States against the threat or use of nuclear weapons,

Reaffirming the central role of the Conference on Disarmament as the single multilateral disarmament negotiating forum, and regretting the lack of progress in disarmament negotiations, particularly nuclear disarmament, in the Conference during its 2003 session,

Emphasizing the need for the Conference on Disarmament to commence negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time,

Expressing its deep concern at the lack of progress in the implementation of the thirteen steps to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons agreed to at the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

Desiring to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or use of nuclear weapons and their destruction under effective international control,

Recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,

Taking note of the relevant portions of the note by the Secretary-General relating to the implementation of resolution 58/46,

1. *Underlines once again* the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control;

2. *Calls once again upon* all States immediately to fulfil that obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination;

3. *Requests* all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of the present resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its sixtieth session;

4. *Decides* to include in the provisional agenda of its sixtieth session the item entitled 'Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*.' [Footnotes not reproduced.]

2. THE ROLE AND FUNCTIONING OF THE COURT

At the 49th meeting of the fifty-ninth session of the General Assembly, held on 4 November 2004, at which the Assembly took note of the report of the Court for the period from 1 August 2003 to 31 July 2004 (see above, p. 277), the President of the Court, Judge Shi Jiuyong, gave the following address:

"Mr. President, Excellencies, Ladies and Gentlemen,

It is a great privilege and an honour for me, in my capacity as President of the International Court of Justice, to address the General Assembly of the United Nations on the occasion of its

examination of the Report of the Court for the period 1 August 2003 to 31 July 2004.

For more than a decade now, this eminent Assembly has invited the President of the International Court of Justice to present an annual review of the Court's activities and achievements. Before I summarize the events of the preceding year, I should like to express my gratitude for this opportunity, which I believe demonstrates the Assembly's ongoing interest in and support for the Court in its role as the principal judicial organ of the United Nations.

It is also a particular pleasure to address you today under the distinguished presidency of Mr. Jean Ping, Minister of State, Minister for Foreign Affairs, Co-operation and la Francophonie of Gabon, and the tenth African President of the Assembly. I congratulate him on his election to the presidency of the fifty-ninth session of the General Assembly, and applaud the commitment made by him and his country to the United Nations mission to build a more caring world in which future generations are freed from the ravages of war and underdevelopment. I should like to wish him all success in office, and in particular with his initiative to pursue broadened consultations with the international community aimed at revitalizing and reforming the Organization.

Mr. President,

The Court has transmitted its annual Report to the Assembly, along with an introductory summary. As the Report is somewhat lengthy, I trust that the following résumé will provide a useful overview of its essential elements.

As I reported last year, 191 States are parties to the Statute of the Court, and 65 of them have accepted the compulsory jurisdiction of the Court in accordance with Article 36, paragraph 2, of the Statute. In addition approximately 300 treaties make reference to the Court in respect of the settlement of disputes arising from their application or interpretation.

Since I addressed you in October 2003, the Court has held five sets of oral hearings relating to no less than 12 cases (the hearings in all eight cases concerning the *Legality of Use of Force* having been held simultaneously). In addition, the Court has rendered a final judgment in three cases and has delivered one Advisory Opinion. This level of activity is unprecedented in the history of the Court, and, as a result of such efforts, the number of cases on the Court's docket had been reduced from 25 a year ago to 20 at the end of the review period. Today there are, in fact, 21 cases in the General List, following the institution of proceedings by Romania against Ukraine on 16 September 2004. Given that in the 1970s the Court had very few cases on its docket, and that from 1990 to 1997 it had between 9 and 13, the current number of cases represents a substantial workload.

The contentious cases pending before the Court originate from all over the world: eleven between European States, four between African States, two between Latin American States and one between Asian States; in addition there are two cases of an inter-continental nature.

The Court's international character is also reflected in its composition: it currently has the benefit of Members from Brazil, China, Egypt, France, Germany, Japan, Jordan, Madagascar, the Netherlands, the Russian Federation, Sierra Leone, Slovakia, the United Kingdom, the United States of America and Venezuela.

The cases included on the docket over the last year illustrate the variety of international disputes that are customarily referred to the Court. The Court is accustomed to handling territorial disputes between neighbouring States that are seeking the determination of their land and maritime boundaries or a decision in respect of sovereignty over particular areas. Currently, there are four such cases in the General List concerning, respectively, Nicaragua and Honduras, Nicaragua and Colombia, Benin and Niger, and Malaysia and Singapore.

States also regularly submit disputes to the Court concerning the treatment of their nationals by other States: this is the position in the extant cases between Guinea and the Democratic Republic of the Congo, and between the Republic of Congo and France, and also in the recently decided case concerning *Avena and Other Mexican Nationals*.

Another category of cases which is frequently referred to the Court concerns the use of force. Such proceedings often relate to events that have been brought before the General Assembly or the Security Council. At the moment the Court is seised of two cases in which Bosnia and Herzegovina and Croatia, respectively, have sought the condemnation of Serbia and Montenegro for violations of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. The Court is also dealing with the *Legality of Use of Force* cases, which are being pursued by Serbia and Montenegro against eight member States of NATO. In those eight cases, Serbia and Montenegro is challenging the legality of the military action of NATO member States in Kosovo. Finally, the Court is dealing with two cases against Uganda and Rwanda in which the Democratic Republic of the Congo contends that it has been the victim of armed aggression.

As I mentioned earlier, in the course of the period under review the Court rendered a judgment on the merits in three cases and delivered one Advisory Opinion. I shall now deal with those decisions in chronological order.

On 6 November 2003, the Court handed down its Judgment in the case concerning *Oil Platforms (Islamic Republic of Iran v. United States of America)*.

By way of background, in November 1992 Iran instituted proceedings against the United States of America arising from the attacks on and destruction of three Iranian offshore oil production platforms by warships of the United States Navy in October 1987 and April 1988. In its Application, Iran contended that these acts constituted a 'fundamental breach' of certain provisions of the 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States and Iran, and also constituted a violation of international law. Iran sought reparation for the damage caused to its oil platforms.

The United States disputed Iran's claim, and counter-claimed that Iran had violated the 1955 Treaty by attacking vessels in the Gulf and otherwise engaging in military actions that were dangerous and detrimental to commerce and navigation between the two countries. The United States also sought reparation for any injury suffered.

In its judgment on the merits, the Court, having carried out a detailed examination of the evidence provided by the Parties, held firstly that the actions of the United States against the Iranian oil platforms could not be justified as measures necessary to protect the essential security interests of the United States, as envisaged in Article XX, paragraph 1 (*d*), of the 1955 Treaty. The Court concluded that recourse to force under that provision was only permitted if a party was acting in self-defence, that is to say, if it had been the victim of an armed attack, and if the actions taken were necessary and proportionate.

The Court then examined the issue of whether the United States, in destroying the oil platforms, had impeded their normal operation and prevented Iran from enjoying freedom of commerce between the two territories, as guaranteed by Article X, paragraph 1, of the Treaty of Amity. The Court found that there was, in fact, no commerce between Iran and the United States in respect of oil produced by these particular platforms at the time of the attacks. Consequently, the Court held that neither Iran's submission nor its claim for reparation could be upheld.

In respect of the counter-claim of the United States concerning the alleged breach by Iran of the obligations under the Treaty of Amity, the Court concluded, on the evidence before it, that there had not been any impediment to commerce and navigation between the territories of the Parties. Consequently, the Court held that the submissions and the claim for reparation of the United States should also be rejected.

The second of the judgments on the merits, in the case regarding the *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador Honduras: Nicaragua intervening)* (*El Salvador v. Honduras*), was delivered in December 2003. The Chamber of the

Court formed to deal with that case found that El Salvador's Application for revision of the 1992 Judgment was inadmissible. In its Judgment, the Chamber recalled firstly that, under Article 61 of the Statute of the Court, a revision could only be requested by a party upon satisfaction of the conditions contemplated by the Statute, namely that the revision should be 'based upon the discovery of [a] fact' which must be 'of such a nature as to be a decisive factor' and should have been 'unknown to the Court and to the party claiming revision' when the judgment was given.

One section of the boundary determined by the 1992 Judgment followed the course of a river known as the Goascorán. El Salvador claimed that it was in possession of scientific, technical and historical evidence that showed the previous course of the River Goascorán, and its avulsion in the mid-eighteenth century.

The Chamber, however, held that the 1992 Judgment had been based on El Salvador's conduct during the nineteenth century with regard to the course of the boundary at that time, and not on a determination of the original course of the river, so evidence of avulsion could not have been a decisive factor.

Secondly, El Salvador sought to rely on a newly discovered copy of an eighteenth-century map and Report, which had been found in the Newberry Library in Chicago, and which differed from the copies presented in evidence by Honduras in the original proceedings. However, the Chamber found that the copies produced by El Salvador varied only slightly from the ones used in 1992, and did not constitute a 'decisive factor' as required by Article 61 of the Statute.

Moving on to the judgments delivered this year: on 31 March 2004 the Court delivered its decision in the case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)*. Mexico had initiated proceedings against the United States of America regarding alleged breaches of Articles 5 and 36 of the Vienna Convention on Consular Relations of 24 April 1963 that arose from the conduct of criminal proceedings against 52 Mexican nationals who had been tried, convicted and sentenced to death in the United States.

The Court's first task was to consider the applicability of paragraph 1 (b) of Article 36 of the Vienna Convention, which sets out the obligations of a receiving State in relation to consular notification. Having found that the United States was subject to those obligations, the Court determined the meaning of the expression 'without delay' in the context of the performance of the requirements of paragraph 1 (b). On the basis of that interpretation, the Court held that in 51 of the cases the United States had breached its obligation to inform a foreign national of his rights to consular notification when 'arrested, or committed to prison or to custody pending trial or . . . detained in any other manner', and in 49 of

the cases the United States had failed to notify a Mexican consular post about the detention of Mexican nationals. Then, noting the interrelated nature of the three subparagraphs (a), (b) and (c) of paragraph 1 of Article 36 of the Vienna Convention, the Court went on to find that in 49 of the cases the United States had breached its obligation (under subparagraph (a)) to enable Mexican consular officers to communicate with, have access to and visit their nationals, and that in 34 cases the United States had violated its obligation (under subparagraph (c)) to enable Mexican consular officers to arrange for legal representation of their nationals.

Mexico had also alleged that the United States had violated its obligation under Article 36, paragraph 2, of the Vienna Convention by failing to provide 'meaningful and effective review and reconsideration of convictions and sentences'. The Court found that the United States had indeed breached this obligation in three cases, but that the possibility of judicial re-examination was still open in the other 49.

The Court held that the review and reconsideration of the convictions and sentences of the Mexican nationals by United States courts would provide adequate reparation for the violations of Article 36 of the Vienna Convention. Although the Court recognized that the means of effecting the review and reconsideration were a matter for the United States to decide, it expressed its view that it was the judicial process that was suited to such a task.

Finally, on 9 July this year, in response to a request by the General Assembly, the Court rendered its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.

Before addressing the question posed by the General Assembly, the Court considered whether it had jurisdiction to respond to the request, and examined the judicial propriety of exercising its jurisdiction in that instance. The Court found, unanimously, that it had jurisdiction to give the Advisory Opinion and decided, by fourteen votes to one, to accede to the request.

Having dealt with those preliminary issues, the Court then addressed the legality of the construction of the wall as a precursor to dealing with the legal consequences of its construction.

The Court found, by fourteen votes to one, that:

'The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law.'

With regard to the legal consequences of these violations, the Court distinguished between the consequences for Israel, those for other States, and those for the United Nations. Turning firstly to the consequences for Israel, the Court, by fourteen votes to one,

found that: 'Israel is under an obligation to terminate its breaches of international law'; and that:

'it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto'.

Further, the Court decided, again by fourteen votes to one, that:

'Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem.'

In respect of the consequences for other States, the Court found, by thirteen votes to two, that:

'All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction';

and that, in addition:

'All States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.'

Finally, with regard to the United Nations, the Court found by fourteen votes to one, that:

'The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and its associated régime, taking due account of the present Advisory Opinion.'

In the preparation of its Advisory Opinion, the Court examined the international law principles relating to the prohibition of the threat or use of force, and the extant rules governing the acquisition and occupation of territory. It also addressed the principle of self-determination, and considered the applicability of international humanitarian law and human rights law in the Occupied Palestinian Territory.

As well as reviewing these vital elements of international law, which are enshrined in numerous treaties, including the United Nations Charter, and in customary law, and reflected in various resolutions of the General Assembly, the Court also recognized the

need for the construction of the wall to be placed in a more general context. In particular, the Court noted that Israel and Palestine are 'under an obligation scrupulously to observe the rules of international humanitarian law' and it expressed the view that the tragic situation in the region can only be brought to an end through the implementation in good faith of all the relevant Security Council resolutions.

The Court also drew the attention of the General Assembly to the 'need for ... efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region'.

Mr. President,

As well as delivering these judgments and the Advisory Opinion, the Court has completed the hearings on the preliminary objections of the Respondents in the eight *Legality of Use of Force* cases brought by Serbia and Montenegro against member States of NATO. In addition, hearings on the preliminary objections of Germany have recently taken place in the *Certain Property (Liechtenstein v. Germany)* case, which concerns Czechoslovakia's treatment of the property of Liechtenstein nationals as German assets following the Second World War. All nine cases are currently under deliberation.

The achievement of the Court during the review period reflects its commitment to dealing with cases as promptly and efficiently as possible, while maintaining the quality of its judgments and respecting the consensual nature of its jurisdiction.

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Mr. President,

It is gratifying to note the increased use of the Court by States over recent years, and in order to meet this growing demand and fulfil its judicial responsibilities, the Court has taken further steps in the review period to improve its judicial efficiency. Since I last reported to you, the Court has undertaken a thorough review of its working methods, and as a result has introduced measures to enhance its internal functioning and encourage greater compliance by parties with previous decisions aimed at accelerating the procedure in contentious proceedings. With these aims in mind, the Court has recently amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII. Amended Practice Direction V clarifies that the four-month period for the presentation by a party of its observations and submissions on preliminary objections

runs from the date of the filing of the preliminary objections. Practice Direction X requests the agents of the parties to attend without delay any meeting called by the President of the Court on a procedural issue. Practice Direction XI provides that in oral pleadings on provisional measures parties should limit themselves to dealing with matters that are relevant to the criteria for the indication of such provisional measures; it thereby addresses a problem which I noted in my speech to you last year. Finally, Practice Direction XII sets out the procedure to be followed with regard to written statements and/or documents submitted by international non-governmental organizations in connection with advisory proceedings. These additions to the Court's Practice Directions will supplement its efforts to expedite the examination of cases which have been reported to you in previous years.

I should now like to draw your attention to a few matters concerning the Budget of the Court for the 2004-2005 biennium. The financial support of the General Assembly is greatly appreciated by the Court, and the Court in turn recognizes its responsibility to apply those funds wisely.

The 2004-2005 biennium was agreed in advance of the General Assembly's urgent request for an Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. Both the public hearings and the delivery of the Advisory Opinion attracted unprecedented world attention. Meeting the demands of the media and providing adequate security placed a great burden on the Court's resources, and it is now clear that the Court will require additional funds to cover its expenses for the 2004-2005 biennium. I sincerely hope that the allocation of such funds will be authorized as soon as possible, so that the Court can rest assured that it has adequate financial support to perform its role in the year ahead.

In the review period the Court has continued to enhance its use of modern technology, building on the achievements that I outlined in October 2003. However, in order to continue this process and comply with the wishes of the General Assembly in this regard, it is essential for the Court to have the benefit of a high level professional officer in the Computerization Division. Therefore, the Court will repeat the request made last year for the creation of a post to enable it to recruit a senior IT staff member with extensive experience and appropriate qualifications.

Finally, on behalf of the Court, I should like to express thanks for the approval of a number of specific requests. In particular, five law clerk posts were converted from temporary to established positions, and, on the recommendation of the United Nations Security Co-ordinator, two security posts were created.

Mr. President, Excellencies, Ladies and Gentlemen,

Since its establishment in 1946, more than half a century ago, the International Court of Justice has contributed to the promotion and development of a unified international legal system, both by the adjudication of contentious disputes between States, and by the exercise of its advisory function.

In the period under review it has demonstrated its ability to deal with a varied and demanding caseload. It has clearly shown that it can react urgently and efficiently to meet the needs of States, as in the case concerning *Avena and Other Mexican Nationals*, and to respond to requests from the General Assembly for an advisory opinion. When performing its role as the principal judicial organ of the United Nations, the Court is always conscious of the purposes and principles of the Organization, and is particularly aware of its responsibility to contribute to the maintenance of peace and security in every region of the world.

In order to achieve these aims and perform its functions, the Court looks to the other principal organs for support and guidance, recognizing that these organs operate on a strictly equal footing, each affording due deference to the authority of the others.

It remains for me to thank you sincerely on behalf of the International Court of Justice for your encouragement and assistance during the review period, and to express my hope that this co-operation and understanding will increase in the years to come, so that the Court can contribute to the vision of a revitalized and effective United Nations.

Thank you, Mr. President."

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On 5 November 2004, President Shi gave the following address to the Sixth Committee of the General Assembly:

"Mr. Chairman, distinguished delegates, Ladies and Gentlemen,

It is for me a privilege and an honour to address your Committee for the second time as President of the International Court of Justice. I sincerely appreciate your kind invitation in this regard.

The 2003-2004 annual Report of the Court to the General Assembly demonstrates that the principal judicial organ of the United Nations has enjoyed yet another year of great activity, with 25 cases at the start of the review period and 20 as of 31 July 2004. The Court held five sets of hearings relating to no less than 12 cases (the hearings in all eight cases concerning the *Legality of Use of Force* having been dealt with simultaneously), rendered three final judgments and delivered one advisory opinion. Currently, the Court has 21 cases listed on its docket, originating from across the globe

and involving a wide range of issues. The Court is delighted to see the ongoing confidence that States place in it and will endeavour to continue discharging its duties with the utmost care.

Mr. Chairman,

The topic which I have chosen to address today takes me away from the thriving contentious side of the Court's work; I would like instead to draw your attention to its generally less known but nonetheless extremely important advisory function. Previous Presidents of the Court in speaking before your Committee have commented on the underutilization of the ICJ advisory procedure and its potential for expansion to a wider spectrum of organs and agencies. At the same time, you have all recently had an opportunity to witness the importance attributed to the Court's opinions, as the front pages of newspapers all over the world covered the Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. I believe that the advisory function of the Court is an extremely valuable tool for the United Nations bodies and that its role in this regard deserves to be highlighted once again.

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I shall begin with a history of the advisory procedure and outline some of its main characteristics.

The advisory function of the Court finds its origins in Article 14 of the Covenant of the League of Nations concerning the establishment of the Permanent Court of International Justice. The Permanent Court was authorized to give advisory opinions on a discretionary basis on 'any dispute or question referred to it by the Council or the Assembly'. One of the primary objectives of this provision was to offer assistance to the Council of the League in carrying out its functions. Indeed, it was not uncommon for the Council, either on its own initiative or at the request of States and intergovernmental bodies, to refer legal questions to the Permanent Court. The subsequent advisory opinions greatly facilitated the work of the Council by offering a solid legal basis for the final settlement of international disputes.

Although these opinions were not binding in nature or *res judicata*, they were invariably given authoritative status by the organs and States concerned. In this way, the advisory procedure allowed the Permanent Court to provide, with the goodwill of the participants, an effective alternative method to achieve, albeit indirectly, the settlement of international disputes and the resolution of legal questions, beyond the boundaries of the traditional contentious proceedings of a court of law.

Despite initial concerns that the advisory function might be incompatible with the role of the judicial institution – either by

appearing legally ineffectual or by affecting the consensual nature of the Court – by 1927, the PCIJ recognized that it had derived significant prestige from the manner in which it had performed its advisory function (*P.C.I.J., Series E, No. 4*, p. 76). Although the questions put in the requests for advisory opinions usually addressed discrete issues, the Permanent Court, through the delivery of 27 advisory opinions in less than two decades, made an exemplary contribution to the development of international law in the period between the two world wars. Its renowned dicta covered the interpretation and application of the Paris Peace Treaties, tensions regarding German minorities, the status of Danzig and ILO requests concerning working conditions for women.

With the creation of the United Nations and the International Court of Justice as its principal judicial organ, the advisory competence was not only maintained, but also widened in scope. According to Article 96, paragraph 1, of the Charter of the United Nations, the General Assembly and the Security Council may request an advisory opinion from the Court on any legal question. While the Security Council has used its prerogative only once, in the *Namibia* case, nearly one third of all the requests for advisory opinions have emanated from the General Assembly.

In addition, the General Assembly may, under Article 96, paragraph 2, of the Charter, authorize other organs of the United Nations and specialized agencies to request advisory opinions 'on legal questions arising within the scope of their activities': currently there are 20 such bodies. Over the years the International Court of Justice has delivered nine advisory opinions at the request of specialized agencies: three for the Committee on Applications for Review of Administrative Tribunal Judgments, two for ECOSOC, two for the WHO, one for Unesco and one for IMCO. On one occasion, in the Advisory Opinion concerning the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (*I.C.J. Reports 1996 (I)*, p. 66), the Court decided that it lacked jurisdiction to reply to a request submitted by the WHO because the request did not relate to a question within the scope of the activities of that Organization as required by Article 96, paragraph 2, of the Charter.

According to Article 68 of its Statute, the Court shall, in the exercise of its advisory function, be guided by the provisions of the Statute which apply in contentious cases, to the extent to which it recognizes them to be applicable. When dealing with requests for advisory opinions, both the PCIJ and the current Court have adopted standard (although simplified) judicial procedures for both the written and/or oral presentations of the positions of the relevant participants, the internal deliberations of the judges and the rendering of a collegial decision.

Article 65 of the Statute provides that the International Court of Justice 'may give an advisory opinion' (emphasis added), and this

has always been understood to confer discretion upon the Court whether to give the opinion requested. The International Court, like its predecessor, has however always considered that there must be compelling reasons for it to exercise its discretion not to render an advisory opinion. In particular, the Court, as a principal organ of the United Nations, considers that it is under a duty to co-operate with other organs and to contribute to the work of the Organization.

Concerns about the propriety of the Court's exercise of its advisory function have tended to arise when the subject-matter of the request has been connected in some way with an actual dispute between States, or, as Article 102 of the Rules of Court specifies, with 'a legal question actually pending between two or more States'. While contentious proceedings destined for the settlement of legal disputes between States always require the consent of the parties, such consent is not set out by Article 96 of the Charter as a condition for advisory jurisdiction. However, the Court has always held that it is obliged, even when giving advisory opinions, to respect the essential rules guiding its activities as a court of justice. Thus in its Advisory Opinion in the *Western Sahara* case, the Court stated that '[i]n certain circumstances . . . the lack of consent of an interested State may render the giving of an advisory opinion incompatible with the Court's judicial character' and added that

'[a]n instance of this would be when the circumstances disclose that to give a reply would have the effect of circumventing the principle that a State is not obliged to allow its disputes to be submitted to judicial settlement without its consent' (*I.C.J. Reports 1975*, p. 25, para. 33).

Such a situation has rarely arisen; this Court's predecessor only once took the view that it "could not reply to a question put to it" in a request for an opinion submitted by the Council,

'having regard to the very particular circumstances of the case, among which were that the question directly concerned an already existing dispute, one of the State parties to which was neither a party to the Statute of the Permanent Court nor a Member of the League of Nations, objected to the proceedings, and refused to take part in any way (*Status of Eastern Carelia*, P.C.I.J., Advisory Opinion, 1923, Series B, No. 5)' (*Threat or Use of Nuclear Weapons*, *I.C.J. Reports 1996 (I)*, pp. 235-236).

However, the present Court has never declined to give its opinion simply because there has been some connection between a dispute involving States and the subject of the request. In a number of cases, the Court has construed the question before it as relating to the exercise of the functions of the requesting United Nations organ rather than to any ongoing dispute. Thus, in its most recent Advisory

Opinion, the Court decided that pronouncing on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* would not have the effect of circumventing the principle of consent to judicial settlement. It reached this conclusion on the basis that the question put by the General Assembly was located in a much broader frame of reference than that of the bilateral dispute, and that this question was of particularly acute concern to the United Nations (*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 159, para. 50).

When considering its jurisdiction, the Court is also subject to Article 96 of the Charter which requires that the question put to it be of a legal nature. The fact that such a question arises in a political context has not been regarded as sufficient to deprive the Court of its jurisdiction. As long ago as 1948, in the case of *Conditions of Admission of a State to Membership in the United Nations* (the first request for an advisory opinion submitted to the ICJ) the Court refused to attribute a purely political character to a request which, framed in abstract terms, invited it 'to undertake an essentially judicial task by entrusting it with the interpretation of a treaty provision'. In its famous dictum in the *Western Sahara* case, it held that questions framed in terms of law and raising problems of international law are by their nature susceptible of a reply based on law and appear to be questions of a legal character (*Western Sahara, I.C.J. Reports 1975*, p. 10). Furthermore, the Court has, to this day, never found that political arguments surrounding a legal question put to it constituted a compelling reason for it to decline to exercise its advisory jurisdiction. In the *WHO-Egypt* case, the Court remarked that

'in situations in which political considerations are prominent it [might] be particularly necessary for an international organization to obtain an advisory opinion from the Court as to the legal principles applicable with respect to the matter under debate ...' (*Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, I.C.J. Reports 1980*, p. 87).

As I mentioned earlier, another essential characteristic of advisory opinions is their non-binding nature; even the requesting body is not obliged to accept the conclusions of the Court. As already indicated, however, the Council of the League of Nations has always favourably accepted the pronouncements of the Court; and so have also the organs and agencies of the United Nations. Moreover, States and other international entities are not prevented from agreeing between themselves that the opinion will be binding on them. Indeed, there are a number of treaties between States and international organizations which stipulate that, in the event of a dispute, the organization will request an advisory opinion of the Court, which

the two parties agree will have a 'decisive' or 'binding' effect on them. The Advisory Opinion in the case concerning the *Difference relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* (I.C.J. Reports 1999(1), p. 62) was issued in response to a request based on an agreement of this kind (namely, the Convention on the Privileges and Immunities of the United Nations, Art. VIII, Sect. 30). In that Opinion, the Court distinguished, however,

'between the advisory nature of the Court's task and the particular effects that parties to an existing dispute may wish to attribute, in their mutual relations, to an advisory opinion of the Court ... These particular effects, extraneous to the Charter and the Statute which regulate the functioning of the Court, are derived from separate agreements.' (I.C.J. Reports 1999 (1), p. 76, para. 25.)

Now that I have outlined the history and main characteristics of the advisory function, I should like to pose the following question: Why should recourse to the advisory function of the Court be encouraged, and how might it be developed to achieve its potential?

Mr. Chairman,

The advisory procedure provides the Court with a very real way of participating and contributing to the overall objectives of the United Nations. In addition to offering legal guidance to the requesting bodies, it can play a role in international dispute resolution and prevention, and clarifies and develops international law.

As I have already mentioned, from its inception, the advisory procedure of the Permanent Court was conceived as a means of providing the Council of the League of Nations with legal guidance in order to facilitate the process of finding a solution to actual international disputes. The current Court can play a similar role for the United Nations. Thus, having lately asserted that the construction of the wall by Israel, in the Occupied Palestinian Territory, including in and around East Jerusalem, as well as its associated régime, are contrary to international law, the Court found among other things that

'the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end [this] illegal situation ... taking due account of the present Advisory Opinion'.

With reference to the contribution the advisory procedure can make towards resolving existing disputes, it is worth recalling that in the past there have been instances in which States have found it more acceptable for an advisory opinion to be requested than for contentious proceedings to be instituted. For example, in the Advisory Opinion on the *European Commission of the Danube*, given

in 1927 by the Permanent Court (*P.C.I.J., 1927, Series B, No. 14*), settlement was achieved by this means only after Romania had rejected the option of seeking adjudication via the contentious procedure, but had agreed to an advisory opinion being requested as a compromise.

The advisory procedure of the Court can also play an 'indirect' part in preventing disputes and conflicts from developing, by clarifying the legal parameters within which a problem may be resolved – whether between the United Nations and its Member States or between States *inter se*. In the past, the advisory function has proved useful in providing advice in the context of abstract problems of lawfulness, raised in the day-to-day activities of the various organs of the United Nations. The case concerning *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (*I.C.J. Reports 1951, p. 51*) dealt not only with an organizational issue and the depositary functions of the Secretary-General, but also with what was a general problem of treaty law, namely the question of the legal effect of reservations to a multilateral treaty, and of the objections made by other parties. As you know, the International Law Commission built on this precedent to devise the solution now enshrined in Articles 20 and 21 of the Vienna Convention on the Law of Treaties. In its Advisory Opinion of 1971 on the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276* (*I.C.J. Reports 1971, p. 16*), the Court interpreted Article 27 of the Charter, and considered a voluntary abstention by a permanent Member of the Security Council did not preclude the adoption of a resolution, despite the terms of that Article.

In the context of the development of international law, advisory opinions can further provide the Court with the opportunity to determine the current status of particular principles and rules of international law and thereby to contribute to a more cohesive and law-abiding international community. In its Advisory Opinion on the *Western Sahara* the Court confirmed, for instance, that a 'cardinal condition of a valid "occupation"' as a legal

'means of peaceably acquiring sovereignty over territory otherwise than by cession or succession . . . was . . . that the territory should be a *terra nullius* – a territory belonging to no-one – at the time of the act alleged to constitute "occupation"' (*I.C.J. Reports 1975, p. 39, para. 79*).

The Court found that State practice at the end of the nineteenth century already indicated 'that territories inhabited by tribes or people having a social and political organization were not regarded as *terrae nullius*'. Reiterating the importance of the principle of self-determination of peoples as determined by the Charter and

General Assembly resolutions 1514 (XV), 1541 (XV) and 2625 (XXV), the Court recognized its direct and particular relevance for non-self-governing territories and its status as a right *erga omnes*. Another example is the Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*. There, the Court considered whether customary international law provided a basis for the prohibition of the threat or use of nuclear weapons. In its Opinion, the Court noted that members of the international community were profoundly divided on the matter and did not therefore consider itself able to find that there was such an *opinio juris*. The Court did however stress the applicability of the principles and rules of humanitarian law to a situation involving the possible threat or use of nuclear weapons. At the end of its reasoning, the Court recognized that it could not conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake. The Court further found that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

The Court's opinions have also been particularly useful in establishing and settling points of the law of international organizations, particularly since entities other than States cannot have recourse to the contentious jurisdiction of the Court. For example, in the case concerning *Reparation for Injuries Suffered in the Service of the United Nations* (I.C.J. Reports 1949, p. 174), the Court stated that in its opinion the United Nations had been created as an entity possessing objective international personality and not merely personality recognized by its Members alone. This Opinion paved the way for the clarification of important aspects of the international legal personality of intergovernmental organizations. Other examples include the case concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco* (I.C.J. Reports 1956, p. 77), which addressed the question of the binding effect of the judgments of the ILO Administrative Tribunal on Unesco, and the case concerning *Constitution of the Maritime Safety Committee of the Inter-governmental Maritime Consultative Organization* (I.C.J. Reports 1960, p. 150), which preceded the reconstitution of the Maritime Safety Committee of IMCO (now the IMO).

In view of the many potential uses of the advisory procedure, it is perhaps surprising that in 58 years the current Court has only been asked to give advisory opinions on 24 occasions; this is comparatively far less frequently than the PCIJ was requested to advise during its 17-year existence. There is a feeling in some quarters that many more international problems could usefully be addressed in this way. Over the years a number of ideas, not all necessarily viable, have been put forward regarding the possible development of the Court's

advisory function to enable it to achieve its potential. In the spirit of opening up the debate on this important topic, but without wishing in any way to prejudge the question, I should like to recall some of these options for you.

Thought might be given to broadening the field of application of the Court's advisory jurisdiction *ratione personae*. It is worth noting that inter-governmental organizations in general have gained prominence in international life. In response to the importance and the complexity of the functions, which many of these organizations perform, it has been proposed that they should be authorized to request opinions directly. It has however been suggested that steps in such a direction might raise certain legal issues in relation to the interpretation of the Charter. In order to avoid these difficulties, access to the Court's advisory procedure might be given to a wider group of inter-governmental organizations, including those outside the United Nations family, through the General Assembly or the Security Council. These two latter organs – which may ask for opinions on 'any legal question' – could, by means of appropriate resolutions, make requests for advisory opinions on behalf of those inter-governmental organizations. This proposition could be especially useful for the regional organizations, whose important role in the maintenance of international peace and security is recognized by the United Nations Charter.

Another suggestion which has been canvassed is to empower the Secretary-General on his own initiative to request advisory opinions. The Secretariat, represented by the Secretary-General, is to date the only principal organ of the United Nations not authorized to request an advisory opinion of the Court on any legal question related to its activity in the service of the Organization. Currently, the Secretary-General can only place a question on the agenda of an organ and suggest that it become the object of a request for an advisory opinion. In fact, on a number of occasions it was the Secretary-General who took the initiative in the General Assembly in order to formulate the requests. Already in 1990, in his annual report on the work of the Organization, Secretary-General Boutros Boutros-Ghali made a recommendation that the General Assembly authorize the Secretary-General and other United Nations organs to take advantage of the advisory competence of the Court, and that other United Nations organs that already enjoy such authorization resort to the Court more frequently for advisory opinions (doc. A/45/1, Part III, p. 7). Reiterating this proposition in his Report on Prevention of Armed Conflict submitted to the General Assembly and the Security Council in 2001, Secretary-General Kofi Annan expressed his belief that the extension of the authority to the Secretary-General would greatly add to the means of peaceful solutions of international crisis situations (doc. A/55/985-S, 2001, 574, para. 50).

Other perhaps less 'mainstream' suggestions which have been made include the idea of authorizing national supreme courts as well as international courts and tribunals to request advisory opinions on certain difficult or disputed questions of international law so as to allow for a uniform interpretation of the rules and principles of international law raised by those questions.

These ideas have found varying support in international legal circles and it is not my intention to claim that any of them represent a definitive way to reinvigorate the advisory procedure of the Court. Rather I should like to draw attention to them in order to stimulate debate among policy makers, including the distinguished delegates whom I have the honour to address today. My hope is that by keeping an open mind to the possibilities available to us, theoretical proposals can lead to practical solutions and a strengthening of the Court's advisory function.

Mr. Chairman,

Recourse to the advisory procedure of the Court offers clear advantages: just as with its judgments, the advisory opinions of the Court allow it to develop its jurisprudence and to contribute to the progress of international law. Furthermore, the 'judicial' approach to this non-binding procedure makes it possible for the Court to offer an authoritative legal opinion, which nonetheless allows for flexibility in its implementation by the participants. Thanks to these unique characteristics, the Court's advisory procedure has the potential to play a key role in the smooth functioning of world organizations, and provides a particularly suitable means for the Court to defuse tension and ward off conflicts by determination of the law.

In conclusion, it is the Court's view that its advisory function should become better known by all so that it can be better utilized and play a greater role in the creation of a coherent international legal order.

Thank you, Mr. Chairman."

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 (*i*), and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below¹.

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) Reports of Judgments, Advisory Opinions and Orders

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately². To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

An analytical index is published for each year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one or two volumes.

Fifty-eight bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. The latest is the volume for 2003. (The *I.C.J. Reports* 1965, 1967, 1968, 1977, 1979 and 1983 are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 307-322, below.)

¹ The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above; see pp. 190-192.

² See Chap. V, p. 197, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings¹, the written pleadings and their annexes², the verbatim record of the oral proceedings³, any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 327-336, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English-French) series. *No. 1* is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

¹ See Chap. V, pp. 193 and 203, above.

² *Ibid.*, pp. 194-195 and 203, above.

³ *Ibid.*, pp. 195-196 and 203, above.

(d) *Yearbook*

Each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the fifty-ninth in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 40 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 52 (year 1998).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography* No. 7: 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography* No. 35: 81; 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales and Marketing Sections of the United Nations Secretariat:

United Nations, Room DC2-853, 2 United Nations Plaza,
New York, NY 10017, United States of America.

Tel.: +1-212-963 8302; Fax: +1-212-963 3489

E-mail: publications@un.org

or

United Nations, Room E.4-3, Palais des Nations,
8-14 avenue de la Paix, 1211 Geneva 10, Switzerland.

Tel.: +41-22-917 2614; Fax: +41-22-917 0027

E-mail: unpubli@unog.ch

They may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. *Publications of the Permanent Court of International Justice*

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)

Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)

Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)

Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)

Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)

Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*

Series E (Nos. 1-16): *Annual Reports*

Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order. Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.

German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.

Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.

Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.

Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.

Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.

Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.

Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.

Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.

Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.

Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.

"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.

Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.

Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.

Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.

Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.

Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.

Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.

Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.

Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.

Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.

Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.

Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.

Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.

Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A B, No. 40, p. 4.

Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro-Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

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III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes (*Series C*) of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

Note should be taken of the fact that, with regard to the International Court of Justice, the information given below refers only to the volumes of the *Pleadings, Oral Arguments, Documents* series, which are published only after the conclusion of a case. As mentioned above (pp. 190-191), written pleadings (if accessible to the public) and oral pleadings in pending cases will, generally, be available on the Court's website, since its launch in 1997.

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UN General Assembly

CHAPTER VIII

FINANCES OF THE COURT

I. FINANCIAL REGULATIONS

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 (*j*), of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

I. General Regulations

(a) Method of covering expenditure

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 98-99, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat – see Chap. VII, p. 301, above), bank interest, etc., are also recorded as United Nations income.

(b) Drafting of the budget

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) Financing of appropriations and accounts

The Registrar is responsible for executing the budget, with the assistance of the Finance Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

*2. Salaries and Expenses of Judges**(a) Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 43/217 of 21 December 1988, resolution 45/250 of 21 December 1990, resolution 48/252 of 26 May 1994,

resolution 50/216 of 23 December 1995, resolution 53/214 of 18 December 1998 and resolution 59/282 of 13 April 2005.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 2005, the General Assembly (resolution 59/282) has fixed the emoluments of Members of the Court at US\$170,080. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed at its sixty-first session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (1) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 2005, the daily fee of *ad hoc* judges has been fixed at US\$466, being 1/365th of US\$170,080.

The emoluments of the judges are thus as set out on the following scale:

<i>President:</i>	US\$
Annual salary	170,080
Special allowance	15,000
<i>Vice-President:</i>	
Annual salary	170,080
Allowance equivalent to US\$94 for every day on which he acts as President, up to an annual maximum of	9,400
<i>Other Members:</i>	
Annual salary	170,080
<i>Judges ad hoc:</i>	
Fee of US\$466 for each day on which they exercise their functions.	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (1) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly

effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985, resolution 45/250 of 21 December 1990 and resolution 53/214 of 18 December 1998.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1999 (resolution 53/214), if a Member of the Court has served a full term of nine years, the amount of the annual pension shall be US\$60,000 in 1999, US\$70,000 in 2000 and thereafter one-half of the annual salary. Members of the Court who were in office or elected on or before 1 January 1999, and who have served for more than nine years shall be entitled to a maximum pension of two-thirds of his or her annual salary. The retirement pension is reduced if he or she has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary. By its resolution 53/214 of 18 December 1998, the General Assembly decided that pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

"The General Assembly,

Recalling its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,

Having considered the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,

1. Decides that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The

Hague, shall be reimbursed, up to a ceiling of \$4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;

2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;

3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 2005, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US\$21,624.

With effect from 1 January 2005 (resolution 59/282) those Members of the Court who have taken up and maintained a *bona fide* primary residence at The Hague for less than five continuous years during their service with the Court shall be eligible, upon completion of their appointment and resettlement outside the Netherlands, to receive a lump sum prorated on the basis of the ceiling of eighteen weeks of annual net base salary that is payable to Members of the Court who have served for five continuous years, and those Members of the Court who have similarly taken up and maintained a *bona fide* primary residence at The Hague for more than five but less than nine continuous years shall be eligible, upon the completion of their appointment and resettlement outside the Netherlands, for a lump sum prorated on the basis of the ceiling of twenty-four weeks of annual net base salary that is payable to Members of the Court who have served for nine continuous years or more.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (1) of 11 December

1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

*3. Salaries, Allowances and Expenses of the Registrar
and Officials of the Registry*

(a) Emoluments

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 7/+1.3 as at 1 July 2005. For temporary staff the subsistence allowance is fixed at 264 euros a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) Pensions

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) Travelling expenses

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 181, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,004,593 euros as from 1 January 2004 and to 1,019,662 as from 1 January 2005.

II. BUDGET FOR THE BIENNIUM 2004-2005

1. Ordinary Expenses

The Budget of the Court for the biennium 2004-2005, which forms Part II, Section 7, of the Budget of the United Nations, was adopted by the General Assembly on 23 December 2003 (resolution 58/271).

PROGRAMME UN-N-08-181, MEMBERS OF THE COURT	US\$	US\$
Salaries and allowances	4,848,800	
Pensions	2,803,000	
Travelling expenses	367,000	
Education grants	168,100	
		8,186,900
PROGRAMME UN-N-08-182, THE REGISTRY		
Salaries – established posts	9,926,900	
Salaries – temporary posts	1,950,400	
Common staff costs	4,890,200	
Salaries and travel costs of temporary assistance	1,649,600	
Consultants	35,100	
Travelling on official business	33,700	
Overtime	80,800	
Representation allowance	7,200	
Hospitality	17,100	
		18,591,000
PROGRAMME UN-N-08-800, COMMON SERVICES		
Contribution to the Carnegie Foundation	2,325,400	
General operating expenses	582,800	
Contractual printing	566,200	
Contracts – external translation	243,400	
Data processing services	125,600	
Supplies and materials	229,300	
Library	139,500	
Furniture and equipment	110,600	
Miscellaneous expenses	38,900	
Acquisition replacement office automation equipment	398,300	
		4,760,000
		31,537,900

2. *Unforeseen and Extraordinary Expenses*

On 23 December 2003 the General Assembly, in accordance with previous practice, adopted resolution 58/273, containing the following provisions:

"The General Assembly

1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 2004-2005 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

(b) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

- (i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of \$330,000;
- (ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of \$50,000;
- (iii) The maintenance in office for completion of the cases of judges who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of \$40,000;
- (iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (Statute, Article 32, paragraph 7) not exceeding a total of \$410,000;
- (v) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of \$25,000."

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